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Letter dated 8 March 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities addressed to the President of the Security Council

In accordance with Security Council resolution 1617 (2005), I have the honour to transmit herewith the fourth report of the Analytical Support and Sanctions Monitoring Team established pursuant to resolution 1526 (2004) and extended by resolution 1617 (2005) (see enclosure). Currently, the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities initiated its consideration of the report with a view to improving the established sanctions measures and their implementation.

I should be grateful if the attached report could be brought to the attention of the Council members and issued as a Security Council document as soon as possible.

(*Signed*) César **Mayoral**
Chairman
Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

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Enclosure

Letter dated 31 January 2006 from the Coordinator of the Analytical Support and Sanctions Monitoring Team established pursuant to resolution 1526 (2004) addressed to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

The Analytical Support and Sanctions Monitoring Team established pursuant to Security Council resolution 1526 (2004) and extended by Council resolution 1617 (2005) concerning Al-Qaida and the Taliban and associated individuals and entities has the honour to transmit to you its fourth report, in accordance with annex I of resolution 1617 (2005).

(*Signed*) Richard **Barrett**
Coordinator

Fourth report of the Analytical Support and Sanctions Monitoring Team appointed pursuant to Security Council resolutions 1526 (2004) and 1617 (2005) concerning Al-Qaida and the Taliban and associated individuals and entities

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I. Summary

1. As terrorist attacks have intensified in recent months in Afghanistan and Iraq, and continued elsewhere around the world, the Monitoring Team notes that both the core Al-Qaida leaders in Afghanistan and the more active leadership in Iraq are making efforts to extend their influence. Though their tactics, methodology and messages may differ, Al-Qaida and Taliban leaders and associated groups will continue their assault on international peace and security unless met by a sustained and coordinated response from a united international community.

2. The Consolidated List of individuals and entities belonging to or associated with the Taliban and Al-Qaida continues to develop in scope and accuracy, and Member States increasingly regard it, along with the rest of the sanctions regime, as a critical element in the international response to terrorism. The Team offers proposals to improve submissions for listing and the quality of the List itself, so as to ensure that it remains an accurate reflection of the threat.

3. Implementation of the sanctions by Member States continues to improve, although disparities between regions and individual States remain. The Team notes that while the Consolidated List is intended as a preventative measure, most of the listed Al-Qaida-related persons have been criminally charged or convicted. As instructed by the Security Council in its resolution 1617 (2005), the Team reports on various current listing and de-listing initiatives and on assets freeze exceptions in accordance with resolution 1452 (2002), and how these measures relate to effective implementation.

4. The amount of money frozen under the Al-Qaida, Taliban sanctions continues to climb, but at a decreasing rate, and the Team looks at some current sources of terrorist financing and various measures to cut them off. The Team sees improvements in the increasingly sophisticated financial sectors of the world, but notes continuing areas of concern, including those resulting from a lack of resources in less developed States.

5. Despite the travel ban, listed persons continue to cross national borders. The Team reports on the progress made by the international community in restricting the movement of terrorists and their supporters, including the recent joint initiative of Interpol and the Security Council, which resulted in an international notice, complete with identity, description, photographs and fingerprints, for persons on the Consolidated List.

6. The arms embargo is the third essential pillar of the Al-Qaida, Taliban sanctions regime. While the travel ban addresses the ability of listed persons to cross borders and the assets freeze targets their logistical capabilities, it is only the effective implementation of the arms embargo that prevents Al-Qaida and its associates from acquiring locally and inexpensively the materials and training that they need to mount attacks.

7. Member State reporting, or lack of it, continues to pose a problem and deprives the Security Council of crucial information regarding implementation efforts; the Team proposes ways to improve the current system. The Team also considers the growing international concern relating to terrorist use of the Internet, and presents views on that issue, as well as across the range of its monitoring activities.

II. Introduction

A. Al-Qaida: overview

8. The second half of 2005 saw serious attacks in London; Bali; Nalchik, Russian Federation; Delhi and Amman and many more elsewhere. These atrocities took place against a background of constant violence in Iraq, where Al-Qaida claimed the grim milestone of its 800th suicide bombing. A string of threatening statements from Al-Qaida leaders, and many warnings of imminent attacks from security authorities, further suggested that the threat from Al-Qaida-related terrorism remains as persistent as ever, despite the enormous effort of the international community to combat it.

9. In its June 2005 report (S/2005/572), the Monitoring Team pointed to the danger presented by a third generation of Al-Qaida supporters; people in all parts of the world with no direct contact with the Al-Qaida leadership who nonetheless embrace its message and are ready and able to mount serious attacks. Along with security officials from many States, the Team has noted that Al-Qaida leaders appear to be trying to bring new, as yet unconnected cells under their strategic control. Several factors work against them, but if they succeed, the terrorist threat will increase still further.

10. The two main centres of influence on the movement are Usama Bin Laden and Ayman Al-Zawahiri in the Afghan-Pakistani border region and Al-Qaida in Iraq. While their objectives are broadly the same, their appeal and approach have begun to diverge. While the leaders in Afghanistan retain their personal appeal and historic credibility as the founders of Al-Qaida, and are better at pretending that there is a religious justification for terrorism, Al-Qaida in Iraq, whether headed by Abu Musab Al-Zarqawi or a successor, with its stream of headline-grabbing attacks, has the greater appeal to those who crave action.

11. Both the core leadership and the Iraq leadership need to present an appearance of unity. Bin Laden needs to claim a role in Iraq as the current most visible area of Al-Qaida activity, and Al-Qaida in Iraq needs to boast the endorsement of Bin Laden to keep the support of many of the smaller groups that are prepared to follow its lead. Zarqawi's oath of allegiance to Bin Laden in October 2004 and Bin Laden's acceptance of it in December 2004 neither expressed nor led to a cohesive leadership; there are open and serious divisions between them, particularly over the targeting of the Shia by Al-Qaida in Iraq. Activity outside Iraq offers a way for both to build independent networks and guarantee the future of the movement in a post-Iraq phase.

12. Although Al-Qaida in Iraq has attracted many local recruits and has forged a close alliance with insurgent groups, its foreign fighters are still regarded as outsiders, and whatever happens in Iraq, no future government there will involve Al-Qaida or any of its non-Iraqi supporters. While the country remains by far the most important area of operation for Zarqawi as well as a useful base, the attack on the three hotels in Amman in November 2005 is just one sign of his determination to extend his reach. Al-Qaida in Iraq has the potential to build a network of outside contacts through the foreigners who come to join the fight and then return home with close personal bonds and strong loyalties to the organization. Security officials have told the Team that on occasion recruiters for Al-Qaida in Iraq have turned back

untrained volunteers and told them to await instructions and to be ready to support attacks in their own countries. Already senior fighters have left Iraq to gather existing supporters and these fresh recruits into new cells.[1] The aim of Al-Qaida in Iraq is to build a capability to launch attacks wherever targets are available, whether through its own members or in cooperation with existing groups that will work with it or, better still, follow its lead.[2]

13. For Bin Laden, while the situation in Iraq may help attract new fighters to his cause, the manner of the Al-Qaida campaign there tends to undermine its broader appeal. Bin Laden needs to provide a balance to the actions of Zarqawi and to demonstrate his continued global reach by mounting spectacular attacks elsewhere, thus allowing him to regain the strategic path he set before the loss of his Afghan base in 2001. But his opportunities are limited by his need for security, and although there are many Al-Qaida supporters in all areas of the world who would be glad to follow his operational lead, both he and Zawahiri will have to overcome numerous problems before they can impose any real control.

14. Although both sets of leaders may believe Al-Qaida is winning, and they have time on their side, they will be impatient to capture and organize the groundswell of support that Al-Qaida enjoys and to bring it together. Otherwise Al-Qaida will remain a series of independent cells mounting attacks in distinct areas of operation but contributing only incidentally to an overall strategy. For the rest of the world, it does not much matter whether Bin Laden or Al-Qaida in Iraq takes the lead, or even if any rivalry between them exists; the challenge remains to prevent them from achieving their goals and, at the same time, to counter the message that continues to provide them with the opportunity to do so.

B. The Al-Qaida message

15. When Bin Laden declared the creation of the International Front to Fight the Crusaders, Jews and the Americans in February 1998, it was not on the basis of ideology or theology; nor did he offer new tactics. His innovation was to move the target from Muslim countries to the West, particularly the United States of America; and by characterizing his terrorism as a struggle between Islam and its enemies, he was able to bring together several diverse and often competing groups under one banner.

16. Al-Qaida does not offer a coherent ideology, and Bin Laden and the various groups that make up the loose Al-Qaida network have major theological differences. No prominent Al-Qaida leader has completed any formal religious training, nor have the majority of its supporters. Individuals such as Bin Laden, Zawahiri and Zarqawi are not clerics and have no religious authority to issue religious rulings or fatwas. Nonetheless, Bin Laden has been able to take advantage of modern communications to appeal to many Muslims as a spiritual leader who somehow makes violence seem glorious and a duty rather than the terrorism that it is.

[1] For example, Loai Mohammed Haj Bakr Al-Saqa, arrested in Turkey in August 2005.

[2] For example, according to two Member States, Al-Zarqawi has established contact with Mokhtar Belmokhtar, a leader of the Salafist Group for Call and Combat (GSPC), a listed entity active in the Sahel and in sub-Saharan Africa.

17. Capitalizing on events to support his contention that Islam is under attack, Bin Laden has managed to offer a sense of purpose and belonging to many Muslims, poorly informed about their religion, who feel alienated from the world around them. His remoteness since 2001 has added to an aura of myth and mystery. Despite his lack of credentials, his air of religious spirituality is far more convincing and appealing than the shallow arguments for murder put forward by other Al-Qaida leaders. It appeals to a generation that has little confidence in the future and is ready to accept an extreme remedy without the need for a clear vision of the ultimate objective.

18. Although Bin Laden's circumstances have denied him the operational role that he enjoyed before the defeat of the Taliban in November 2001, the content of his January 2006 statement, and the more frequent messages from Zawahiri, continue to call for action and to emphasize political goals. Since the 1980s, these have gone through four main phases: the first was to liberate Afghanistan from Soviet control; the second to support Taliban control of Afghanistan and persuade the United States to withdraw its forces from the Gulf States, particularly Saudi Arabia; the third, from 1998, was to confront the United States and other Western nations through terrorist attacks across as wide a front as possible; and the fourth, from 2003, was to engage all enemies, including in the Muslim world, wherever they could be reached.

19. Based on an analysis of the statements by Al-Qaida leaders, their immediate objectives are to terrorize the West into disengagement from the Middle East and other Muslim States and to persuade Muslims that their world is under attack. By encouraging this atmosphere of confrontation, they hope to gain political influence without having to make clear their long-term aims, given the disagreements that would certainly arise if they tried to say what they were. Insofar as he is able, Bin Laden will continue to direct his terror campaign first and foremost against the United States and Western Europe; but he will also aim to support associated groups with a more local agenda, such as in Chechnya and South-East Asia. Al-Qaida will also continue to mount attacks in Muslim States and seek to establish a stronger presence in areas where central control is weak, such as the Sahel, sub-Saharan Africa and Somalia. In all cases, Al-Qaida will hope that reaction and retaliation will lead to more recruits.

C. The Taliban

20. The Taliban have become nastier. Attacks in Afghanistan increasingly show the influence of Al-Qaida methods in Iraq, with suicide bombings and beheadings becoming more commonplace, and the evidence shown on television.[3] Whether support for the Taliban has increased is another matter. The parliamentary elections took place successfully and the new Government has begun to take shape. Some 640 Taliban have been accepted into the Government's reconciliation programme.[4] But Afghanistan remains vulnerable, and attacks on pro-government mullahs, school teachers and other professionals whose contribution is vital to the future of the country are likely to have the intended effect of slowing the pace of recovery or, in

[3] The Secretary-General's Special Representative for Afghanistan briefed the Security Council on 17 January 2006 that 13 of the 19 suicide attacks since January 2005 had taken place in the last 10 weeks (S/PV/5347).

[4] United Nations Assistance Mission in Afghanistan (UNAMA) estimate as of 7 January 2006.

some places, bringing it to a complete halt. Support for the return of Taliban rule is likely to remain very limited,[5] but with much of Afghanistan out of central control, drug cultivation extending for the first time to all provinces and corruption rampant, Taliban fighters provide an additional source of instability that is exploited by local warlords and others with no interest in good governance.

D. The international response

21. The sanctions regime continues to have an important though limited effect. The impact of the assets freeze, travel ban and arms embargo imposed by the Security Council on its Consolidated List of individuals and organizations associated with Al-Qaida and/or the Taliban is blunted by three factors: the quality and consistency of implementation of the measures by Member States; the relevance and accuracy of the List; and the vulnerability of those on it to the imposition of sanctions.

22. The international response to Al-Qaida terrorism is far from limited to the sanctions regime, but the importance of coordinated international action makes the sanctions regime the focal point around which other practical measures should coalesce. Over the last six months, the world community has begun to address with great seriousness the importance of dealing with the ideas and message of Al-Qaida, to understand its appeal and to address the constituency that is most vulnerable to its attraction. Vital as it is to prevent terrorists from carrying out their attacks, it is clear that terrorism cannot be defeated by security measures alone and that many members of the international community look to the Security Council to introduce measures that limit the means by which Al-Qaida spreads its message as well as to promote programmes that aim to undermine it.

III. The Consolidated List

23. As the Monitoring Team has stated in previous reports, the Consolidated List stands at the heart of the Al-Qaida, Taliban sanctions regime. In the continued absence of a universally agreed definition of terrorism, it provides a list of individuals and entities that the international community agrees are terrorists or their associates. By the end of 2005, the List had 466 entries: 205 individuals and 118 entities associated with Al-Qaida; and 142 individuals and one entity associated with the Taliban. At the same time, the List also contained the names of 17 de-listed individuals and entities.

24. The Committee has continued to encourage all States to submit names and additional identifying information for inclusion on the List and the Team has been active in its support. As a result, in 2005, 18 States submitted names for the Committee's consideration, many for the first time, and the Committee added 28 individuals and four entities to the List, all associated with Al-Qaida. The Committee also de-listed one individual from the Taliban section in 2005 and two from the Al-Qaida section so far in 2006.

[5] UNAMA studies ascribe less than 20 per cent of violence in Afghanistan to Taliban-inspired anti-Government activity.

A. Improving submissions for listing

25. When submitting names, States are encouraged to consult the Committee's guidelines for insight on procedures, but even so, some States may be unclear as to the most appropriate manner in which to submit or the extent of information required. As a result, States may submit a name in a way that prompts the Committee to reject it or to put it on hold for a period of months, if not longer. As well as diverting the Committee's time and resources from other critical work, this may leave the proposing State feeling alienated from or confused about the process, and the Team recommends that, wherever possible, the Committee give a submitting State regular feedback on the progress of its submission when it does not decide within five days whether to accept it.

26. Because of Member State uncertainties, the Team is regularly approached to provide informal procedural advice to countries considering a listing (or de-listing) proposal, but the Team believes, based on its discussions with States, that it would be best if the Committee offered additional guidance and structure. Specifically, the Team recommends that the Committee utilize a standard cover sheet for listing proposals to ensure that States follow the same format and cover all subjects commonly required for a successful listing request. The cover sheet could contain separate boxes for each type of useful identifying information, as well as for each possible basis for listing (for example, the acts and activities that Security Council resolution 1617 (2005) records as included in the definition of "associated with").[6] Even though States need not be obliged to fill every box, use of a standard-form cover sheet would assist States in proposing listings and the Committee in evaluating them.[7] The Team will present a cover sheet to the Committee for its consideration if it finds the idea useful.

27. In addition, the Team recommends that the Committee provide additional guidance for the "statement of the case" required under resolution 1617 (2005) and reflect such information in any cover sheet. In the Team's view, a successful listing is most often linked to a complete and thorough account of the basis for listing, including the nature of the subject's association with Al-Qaida or the Taliban. The Team believes that successful listings generally are factual, avoid unsupported allegations or broad assumptions and reference supporting evidence or documentation to the greatest extent possible. To speed up the approval process, States might be encouraged to provide the Committee with any available supporting evidence or documentation, such as arrest warrants, existing Interpol notices, indictments or judicial decisions or transcripts.

28. To strengthen paragraph 6 of Security Council resolution 1617 (2005), the Team also proposes that States be encouraged to submit a statement of the case that could be publicly released, or at least revealed to requesting States or organizations (such as Interpol) upon the Committee's approval. States could submit a separate, confidential statement of the case, where necessary. In any event, the Team believes

[6] If the Committee approves this recommendation, it could notify States and put the cover sheet on its website. States could then adapt the form according to the relevance of each box to its submission.

[7] The Team's proposed design would aim to conform with that used by the Committee to request the issuance of Interpol-United Nations Security Council special notices (see section VI.C, below) and so should also assist the speed and accuracy of that process.

that all statements of the case submitted should be labelled by States as "confidential" or "non-confidential", so that the Committee knows whether or not they can be released, if necessary.

B. Quality of the Consolidated List

29. Equally important as adding (and deleting) names is improving the quality of existing entries. Many Member States continue to complain that some entries on the List are inadequate or inaccurate, and several have provided additional identifying information in order to help improve them. As a result, the Committee has accepted some hundreds of amendments, with more under consideration. The Team intends to continue to collect as much additional information as possible on selected entries on the List and recommends that the Committee continue to see this as priority work. It also recommends that the Committee should aim to collect as much detail for existing entries as has been demanded for new ones over the last few years.

C. Changes in format

30. In 2005, the Committee approved proposals to: assign a permanent reference for each name on the List; add to the List the version of the name as it would appear in the script used in original identification documents; and place the Taliban names in alphabetical order (S/2006/22, para. 16). The Team and the Secretariat are in the process of preparing these changes for the Committee's approval.

IV. Implementation of the sanctions

31. Implementation of the sanctions continues to improve, but certain challenges persist. In addition to the quality of Member State submissions to the Committee are concerns about the procedures for listing, de-listing and exceptions under resolution 1452 (2002).

A. Chronicle of the listed parties

32. The Team is often asked about the background of the persons on the Consolidated List, specifically what type of conduct precipitated their listing and to what extent their activities have resulted in criminal charges, arrests or convictions. While it is clear that criminal charges or convictions are not a prerequisite for listing, because the List is intended as a preventative rather than a punitive measure,[8] a glimpse into the backgrounds of the listed may provide some insights

[8] As the Committee has noted, "A criminal conviction or indictment is not a prerequisite for inclusion on the Consolidated List, and States need not wait until national administrative, civil, or criminal proceedings can be brought or concluded against an individual or entity before proposing names for the List. Delays in implementation of sanctions only serve to allow Al-Qaida or Taliban supporters an opportunity to circumvent sanctions" (see S/2005/760, sect. II). This principle is in accord with the Financial Action Task Force (FATF) Special Recommendation III — endorsed by the Security Council in paragraph 7 of resolution 1617 (2005) — which proposed that countries be able to freeze terrorism-related assets pursuant to resolutions 1267 (1999) and 1373 (2001) as a "preventative" measure, "based on reasonable

into the threat they pose. Indeed, aside from Bin Laden, Zarqawi, Mullah Mohammed Omar and other well-known terrorists, the public may know relatively little about many of the individuals on the List. Since its last report, the Team has put together an overview of listed individuals and their activities in support of Al-Qaida and the Taliban, and the following represents some of the more salient results.[9]

33. Of the 203 Al-Qaida associated persons on the Consolidated List at the end of January 2006, at least 111 (55 per cent) have been arrested for, convicted of or charged with a criminal offence,[10] most of them for serious and/or violent crimes ranging from murder to participation in terrorist acts such as the 1998 embassy bombings in East Africa, the 11 September 2001 attacks in the United States and the 2002 bombings in Bali. The geographic scope of their activities includes Africa, the Americas, Central and South-East Asia, Europe, the Middle East and the South Pacific.

34. All but four of the 111 have been convicted of or charged with a crime, with 63 (59 per cent) of the 107 being convicted and the remaining 44 (41 per cent) facing charges. Of the 63 convictions, 51 (81 per cent) came prior to listing and 11 (17 per cent) subsequently, with one individual being convicted of crimes both before and after listing. Judicial proceedings were begun prior to the listing of all 44 facing criminal charges. In terms of arrests, 57 (53 per cent) of the 107 have been apprehended, of whom 44 (77 per cent) were arrested prior to their listing, and 13 (23 per cent) subsequently. At least 23 listed persons (21 per cent) who have convictions or charges against them remain at large, while the status of the remainder is unknown or could not be corroborated.

35. Information regarding the listed Taliban remains murkier. Only a small amount of information has been received regarding criminal charges filed against any of the Taliban, which is not surprising given that reconciliation efforts in Afghanistan are still to be completed. At least three of the 142 listed Taliban have been arrested, although the specific charges against them remain unclear.

36. At least three listed Al-Qaida individuals have been reported killed by official sources. Unofficial sources suggest at least six other listed Al-Qaida supporters and four listed Taliban may also have died, including Mohammed Khaksar, the former Taliban Deputy Interior Minister who was reported assassinated in January 2006. Deceased people remain on the Consolidated List, however, until the Committee chooses to remove them.[11]

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grounds, or a reasonable basis, to suspect or believe that such funds or other assets could be used to finance terrorist activity" (FATF Special Recommendation III and corresponding interpretative note).

[9] In conducting this study, the Team relied on information provided to it or to the Committee by Member States. The numbers cited are probably much lower than the reality, given that many more convictions, charges or arrests have been reported in the media.

[10] While official information provided to the Team suggests that up to 45% of listed Al-Qaida associated individuals have neither been charged with nor convicted of a crime, based on their conduct, most of them probably could have been were it not for various legal and technical impediments such as explained by the Team in a previous report (S/2005/572, para. 40).

[11] The Team has recommended the Committee allow for the removal of deceased persons from the List, under appropriate circumstances (see sect. IV.C, below).

B. Specific implementation issues

37. The Committee may wish to consider how to respond to paragraph 11 of resolution 1617 (2005), in which the Security Council asked it to encourage the submission of names and additional identifying information from Member States for inclusion on the Consolidated List. From the time of the adoption of the sanctions to the end of 2005, 31 States have proposed names for listing (although approximately 50 States supported the submission to list Jemaah Islamiyah in October 2005),[12] but many of them, and a substantial number of other States, appear to have no national procedures in place for determining whether and how to do so.

38. The Team recommends that the Security Council and the Committee encourage States to designate or establish national mechanisms to identify and target individuals and entities for inclusion on the Consolidated List based on a clearly identifiable legal authority distinct from the criminal process. A further advantage is that such a mechanism could also be used to identify and target other terrorists, support networks and organizations (that is, non-Al-Qaida or Taliban) that should have their assets frozen and be excluded from the financial system in accordance with paragraphs 1 (c) and 1 (d) of resolution 1373 (2001).

39. States could also be encouraged to vest the administration of the sanctions within a designated agency, with the authority to investigate and impose penalties for non-compliance, thereby ensuring that a national entity was overseeing implementation of the sanctions within the country. This could also alleviate certain due process concerns, because the agency could be charged with receiving and evaluating petitions from residents for de-listing or exceptions pursuant to resolution 1452 (2002) (see sect. IV.C and D below), thus providing listed parties with a national mechanism in which to be heard. This agency also could be the one that provides the requisite notification to listed individuals and entities, pursuant to paragraph 5 of resolution 1617 (2005).

C. Other listing and de-listing issues

40. Issues surrounding the fairness of the Committee's listing and de-listing process continue to occupy the attention of national and international policymakers. Since the Team's last report, the Security Council, the General Assembly and the Secretary-General have all addressed the topic. More than 50 States, from all regions, have mentioned the need for due process and transparency in the Committee's listing and de-listing procedures (S/2005/761, para. 37), and a major regional court has offered its opinion on the issues involved. Moreover, additional reports on listing and de-listing have been requested from at least four different bodies, including the Team.

41. There have been some notable developments. In its resolution 1617 (2005), the Security Council adopted several recommendations that had been proposed both to increase fairness and strengthen the sanctions. The resolution: (a) defined the term "associated with" to provide enhanced clarity to States and private parties about conduct that could result in listing; (b) authorized the release of statements of the case, under certain circumstances, which could strengthen enforcement of the

[12] See http://www.foreignminister.gov.au/releases/2002/fa158_02.html.

sanctions and provide more information on the reasons for particular listings; (c) requested relevant States "to inform, to the extent possible, and in writing where possible, individuals and entities included in the Consolidated List of the measures imposed on them, the Committee's guidelines, and, in particular, the listing and de-listing procedures and the provisions of resolution 1452 (2002)"; (d) directed the Committee to continue its work on its guidelines, "including on listing and de-listing procedures, and implementation of resolution 1452 (2002)", and requested the Chairman to provide progress reports on those issues when reporting to the Council; and (e) explicitly tasked the Team to report on "listing, de-listing, and exemptions pursuant to resolution 1452 (2002)".

42. Subsequently, on 21 September 2005, the Court of First Instance of the European Communities handed down significant decisions in two cases challenging the Al-Qaida, Taliban sanctions regime. The Court upheld the sanctions, and the primacy of the Security Council when acting under the Charter of the United Nations, but also ruled, apparently for the first time, that courts could review Security Council decisions to ensure that they comply with internationally recognized fundamental norms of human rights from which neither Member States nor the United Nations may derogate. Both decisions have been appealed to the European Court of Justice.[13]

43. Days after the European Court's decision, as part of the World Summit in September 2005, the General Assembly entered the debate over listing and de-listing issues. In the World Summit Outcome, the General Assembly noted the importance of sanctions as a means to maintain international peace and security and recommended that the Security Council improve its monitoring of their implementation and effect. The General Assembly also called upon the Security Council, with the support of the Secretary-General, to ensure that fair and clear procedures exist for placing individuals and entities on sanctions lists and for removing them, as well as for granting humanitarian exemptions (General Assembly resolution 60/1, paras. 106-109).

44. The Secretary-General responded to the World Summit Outcome in a report dated 25 October 2005 (A/60/430), in which he noted that it was understood that the Council would determine the timing and manner of its consideration of the General Assembly's recommendations regarding sanctions. The Secretary-General tasked the Office of Legal Affairs to begin an interdepartmental process to develop proposals for the consideration of the Security Council. The Office of Legal Affairs expects to be able to deliver its findings to the Secretary-General in the course of the year.

45. Meanwhile, the Security Council's 1267 (1999) Committee continued to review its guidelines regarding listing and de-listing. In a note verbale issued to Member States in January 2006, the Committee stated that with regard to sections 6 and 8, dealing with listing and de-listing procedures, only technical corrections were introduced, since no agreement had been reached so far. Pursuant to paragraph 18 of

[13] See http://curia.eu.int/en/actu/communiques/cp05/aff/cp050079en.pdf. For more information on these cases, and other legal challenges to the Al-Qaida, Taliban sanctions pending around the world, see annex.

the resolution, the Committee reported that it would continue its work with respect to these two sections with a view to updating them, as mandated by the Council.[14]

46. As the Committee continues its work, Member States continue to contribute ideas. Denmark, as a current member of the Security Council, has proposed that the Committee establish an independent review mechanism, in the form of an ombudsman, which could accept petitions directly from listed parties who claim they were unjustly included on the List and unable to get de-listed. The ombudsman would have the authority to consider those petitions, as well as other cases raised on his or her own initiative, and make a recommendation for action to the Committee.

47. Meanwhile, other countries and organizations appear poised to make their voices heard on these matters. As part of a process initiated by the Governments of Germany, Sweden and Switzerland, the Watson Institute for International Studies at Brown University has been commissioned to examine listing and de-listing issues with a view to strengthening United Nations targeted sanctions and due process. The three Governments intend to release the results of the study, including recommendations, and hold a workshop on these subjects in late March 2006. In addition, in late 2004, the Council of Europe's Committee of Legal Advisers on Public International Law (CAHDI) began to study the implementation of United Nations sanctions and respect for human rights and the results of that work will be discussed at its next meeting, which is also to be held in March 2006.

48. Although many of the Team's own proposals in this area have been acted on, it hopes that the remaining proposals will be considered as the Committee continues its work on the guidelines. These recommendations suggest that the Committee: (a) encourage States, prior to proposing a listing, and without prejudice to its right to continue with its submission, to consider contacting the State of residence and/or citizenship of the proposed designee;[15] (b) clarify the procedure to be followed in cases in which innocent persons with a name similar to a listed party mistakenly have their assets frozen by a State; (c) require that States forward petitions for de-listing to the Committee, even if they object to the particular petitions, so the Committee may make the ultimate determination;[16] (d) enlarge the number of States that may submit de-listing petitions; (e) endeavour to reach a decision on de-listing petitions within a defined period, where possible, and notify the petitioning State of the outcome; (f) clarify that de-listing is available, under certain conditions, both for a party that was designated wrongly and for those who renounce terrorism and demonstrate to the Committee's satisfaction that they are no longer associated with

[14] See also Committee guidelines (http://www.un.org/Docs/sc/committees/1267/1267_guidelines.pdf), note 2.

[15] States may also wish to consult other States with a particular knowledge of the concerned individual or entity in order to add to or check information or invite a joint listing.

[16] Some States have expressed concern that this proposal effectively allows individuals to contact the Committee, which departs from the historical practice of the Security Council. Yet, an integral part of the Team's proposal is the person's petition to his or her Government, thus allowing that Government to consult with the original designating Government and assess the petition before taking a position on it and circulating it to the Committee. To the extent the recommendation allows individuals to contact the Committee indirectly, via their Governments, it should be noted that other United Nations sanctions regimes permit more direct access; for example, the resolution 1572 (2004) Committee concerning Côte d'Ivoire appears to allow an individual to petition that Committee via the United Nations mission of his country of nationality or residence or through a United Nations office. 1572 (2004) Committee guidelines, para. 10 (a).

Al-Qaida or the Taliban; and (g) permit, under appropriate circumstances, for de-listing of deceased persons (S/2005/572, paras. 28, 31, 55-57 and footnote 26).

49. Finally, at the Team's third regional meeting with the heads and deputy heads of the security and intelligence services of seven Arab States and Pakistan, some of the participants suggested, as others have in the past, that the listings have a time limit, or at least be subject to regular review. The Team sees merit in this type of proposal. As the world approaches the five-year anniversary of the September 2001 attacks in the United States and subsequent regular additions to the List, the Team believes it is as important as ever to strengthen the effectiveness of the sanctions regime, while retaining core principles of fairness. In this spirit, the Team wonders about the meaning of "preventative" sanctions, as these sanctions are designed to be. Should the individuals and entities on the List remain there forever, unless and until a particular State takes the initiative to submit a de-listing petition, or should there be a review procedure after a fixed period to ensure that each individual case continues to present a sufficient threat to require a global asset freeze and a ban on international travel? The Team believes the Council or Committee might wish to consider a review period of five years for listings, similar to the five-year review used by Interpol for its notices, to ensure that the List remains an accurate and up-to-date reflection of the threat posed by Al-Qaida, the Taliban and their associates.[17]

50. To avoid creating a backlog in the Committee, the Team recommends that the Committee consider a system of review that allows for automatic renewal of listings on their five-year anniversary, unless the Committee, by consensus, decides that the threat posed by the particular listed party had subsided sufficiently (or been dealt with adequately by the State of residence or citizenship) to allow for their removal from the List. The Secretariat (with the assistance of the Team, if necessary) could circulate the relevant names to the Committee at least 60 days prior to the five-year anniversary of their listing, along with the relevant statements of case. The State that originally submitted the name and the State(s) of residence and/or nationality could be permitted to notify the Committee in writing whether they supported a continued listing and provide, if they wished, additional information, including identifying data. On the five-year anniversary, each name would automatically be placed on the List for another five years, unless all 15 members of the Committee agreed to its removal.

[17] There is some precedent for this approach. In one of its early resolutions against the Taliban, for example, the Security Council limited the sanctions to one year and required Council approval to keep them in force after that time (resolution 1333 (2000), paras. 23 and 24). In addition, some States and international organizations utilize time limits and review periods to ensure the continued accuracy of certain restrictive measures. For example, in the United Kingdom, certain freezing orders, issued by the Treasury against foreign governments or persons who have taken, or are likely to take, any action detrimental to the United Kingdom or its residents, expire after two years (Anti-Terrorism, Crime and Security Act 2001, sect. 8). Another example is Interpol, which requires that every item of personal information contained within its notices, website or database be re-examined every five years (Interpol rules on the processing of information for the purposes of international police cooperation, article 13, located at http://www.interpol.int/ Public/ ICPO/LegalMaterials/ constitution/info/default.asp).

D. Humanitarian exceptions

51. A frequently overlooked aspect of the sanctions regime is resolution 1452 (2002) in which the Security Council defined the so-called "humanitarian exception"[18] to the assets freeze portion of the sanctions and delineated three important rules.[19]

52. Paragraph 1 (a) of resolution 1452 (2002) permits States to unfreeze a certain amount of otherwise frozen assets to allow the payment of a listed party's basic expenses, such as food, clothing, shelter, medicine and legal fees.[20] A State may utilize this exception merely by notifying the Committee of its intention to invoke the provisions of resolution 1452, unless the Committee makes a negative decision within 48 hours.

53. Paragraph 1 (b) of resolution 1452 (2002) permits States to use a portion of blocked funds for "extraordinary expenses". Unlike the paragraph 1 (a) exception, which is deemed approved unless a negative decision is reached by the Committee within 48 hours, the Committee must act to approve a paragraph 1 (b) request before it may take effect. This is presumably because the basic expenses outlined in paragraph 1 (a) may be necessary for life or liberty and so require immediate action, while extraordinary expenses ordinarily would not.

54. Paragraph 2 of resolution 1452 (2002) clarified the assets freeze sanction by noting that States could allow the payment of interest or other earnings on frozen accounts or payments arising from agreements made prior to the date of a party's addition to the List as long as all such interest or other earnings remained subject to the sanctions.

55. From the time of the adoption of resolution 1452 (2002) to the end of January 2006, the Committee received 29 requests for exemptions pursuant to the resolution, involving 23 individuals and two entities. Of these, the Committee approved 25 requests; one was withdrawn after the Committee asked for additional information, and three remain under consideration. The approved requests authorized payments for a variety of items, including: basic expenses and accommodation (17 requests); extraordinary expenses (2 requests); legal representation (6 requests); miscellaneous bank charges (1 request); the sale of a home to settle an outstanding mortgage debt

[18] The Team recognizes the term "humanitarian exception" might be a misnomer, given that the word "humanitarian" does not appear in resolution 1452 (2002) at all. Indeed, some have suggested that a primary reason for the exception was simply to allow listed parties the right to incur legal fees to challenge their designation, rather than to satisfy general humanitarian needs. Given the types of expenses permitted under the resolution, however, it has become widely known as authorizing "humanitarian exceptions".

[19] Resolution 1267 (1999) originally created the "humanitarian need" exception to the assets freeze portion of the sanctions to be approved by the Committee on a case-by-case basis, but it did not outline the circumstances that would warrant the exception, or the process by which it would be approved.

[20] Paragraph 1 (a) of resolution 1452 (2002) defines "basic expenses" as "including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges, or exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services, or fees or service charges for routine holding or maintenance of frozen funds or other financial assets or economic resources".

(1 request); and certain expenses of an ongoing business (1 request — see box 1 below).

56. Of the three requests still under consideration, two seek authorization for access to frozen funds for the same individual for the payment of expenses such as food, medical costs and legal fees, but at an amount much higher than similar requests. The other involves a request to pay taxes and legal fees incurred by a listed entity over which a listed person apparently retained some form of control.

57. Certain conclusions may be drawn from this historical record. First, the Committee approved virtually all requests for routine and extraordinary expenses that it received. But while there are 345 individuals on the List, requests under resolution 1452 (2002) have been made for just 23 persons, and by only eight States (all but two from Europe). Even assuming that the whereabouts of a large number of listed persons remain unknown, a great many others have been identified publicly as residing within particular countries and it appears, therefore, that many States ignore resolution 1452 (2002), and simply allow basic expenses for the listed, whether from State funds, a third party or the individual's own resources. Therefore, while listed persons are clearly entitled to basic necessities such as food and shelter, the Team recommends that the Committee do more to emphasize the obligatory nature of the resolution 1452 (2002) requirement of reporting and approval.[21]

58. Indeed, resolution 1452 (2002) serves as more than a vehicle for the provision of humanitarian needs. The process envisioned enhances fairness by enabling the Committee to ensure that reasonably comparable types and levels of basic and extraordinary expenses can be approved worldwide.

Box 1
Open for business

In January 2006, the Committee approved, for the first time, a resolution 1452 (2002) request for an entity, a case that could serve as a model for countries implementing the assets freeze on businesses. The Italian Government made the request on behalf of a listed entity (a hotel) owned by a listed individual. To avoid the loss of the jobs of innocent hotel workers, as well as the revenue stream generated by the business, Italy proposed that a Government agency assume custody and management of the hotel, pursuant to provisions of a soon-to-be-adopted national law. This mechanism would ensure that the listed party did not control the corporate assets and could not divert income to support terrorism. The income generated by the business will pay running expenses, under Government oversight, and any profits will be placed in a frozen account.

Source: Government of Italy.

59. Although resolution 1452 (2002) makes no distinction between individuals and entities, the Team believes that, as a general rule, the Committee may wish to tread

[21] The Team believes that States submitting resolution 1452 (2002) exception requests should be encouraged to provide additional data on the listed parties at issue in order to assist the Committee in improving the Consolidated List.

cautiously when asked to approve expenses to allow entities to continue to operate. The Italian plan described in box 1 above depends on legislation that allows the Government to take custody and manage a business in place of a listed person or his appointees. But while this approach may work well for entities that provide services in a discrete area over which a national government can exercise oversight and control, it may not apply so readily to other types of entities, such as international charitable and/or financial organizations, where money may regularly flow to or from individuals or groups outside the jurisdiction of the Member State.

60. Another potentially troubling aspect of the humanitarian exemptions provision is that, because a private individual or entity is not permitted to petition the Committee directly, it is the listed party's State of residence that determines whether the Committee ever receives a resolution 1452 (2002) petition.[22] As with its views on the de-listing process (see sect. IV.C, above), the Team believes that this undermines the decision-making role of the Committee and recommends that the Security Council and/or Committee instruct States that they must forward to the Committee any petition received under resolution 1452 (2002), letting the Committee know whether they support, oppose or are neutral towards it.

V. The assets freeze

61. Since the Team reported in June 2005, two more States[23] have reported freezing assets and the Team has learned of an additional $5.46 million in frozen funds.[24] This brings the total number of States that have frozen assets under the Al-Qaida, Taliban sanctions measures to 34. States freeze assets in a variety of currencies; taking currency movements into account, the current value of assets subject to the measures is $93.4 million, excluding the five States that have frozen assets but have not provided figures. The assets frozen remain a mix of funds[25] and other economic resources.[26]

62. The Team notes that no State has informed the Committee or the Team that they have located and frozen assets belonging to any of the 23 individuals or one entity added to the List since June 2005.

A. Identifying current sources of finance

63. The number and scale of terrorist attacks being attributed to Al-Qaida demonstrate that the network continues to thrive and to have access to sufficient financial resources to support its activities. Considerable funds are available to Al-Qaida in Iraq,[27] and other groups have managed to raise money through crime or donations. If the general level of Al-Qaida finances may limit elaborate, large-scale

[22] The Team has no information to suggest that any State has refused to forward a resolution 1452 (2002) exception petition to the Committee, but it nevertheless believes the process should be clarified to ensure that this does not occur.

[23] Bangladesh and Ethiopia, although Bangladesh did not report the amount frozen.

[24] Albania ($5,421,686.75) and Ethiopia ($36,383.40) at current rates.

[25] Bank accounts, investment accounts, life insurance policies, mortgages and other credits, shares or interests in companies, etc.

[26] Tangible properties and business entities.

[27] Information received from a Member State.

attacks, it is clearly adequate to fund the low-cost attacks that are currently its hallmark.

64. While new studies claim to document Al-Qaida's financial networks and facilitators, they nearly all relate to the period around 2001. Questions remain as to who is now providing the funds, the origins of this money and how it is moved from one jurisdiction to another. The slowing pace of freezing actions by States suggests a need for more analysis of how terrorists are actually funding their operations. Such analysis should run in parallel with, and inform, continuing efforts to strengthen global regulatory standards.

65. Based on information provided by States, the Team believes that Al-Qaida raises at least as much money from non-criminal sources as it does from criminal ones. Although local cells are known to engage in small-time criminal activity, such as credit card fraud or drug peddling,[28] and the United Nations Office on Drugs and Crime (UNODC) reports that groups straddling the borders between Afghanistan and Pakistan, the Islamic Republic of Iran and Uzbekistan collect transit fees from drug transporters, thus benefiting the Taliban,[29] there is as yet little consistent evidence of large-scale terrorist involvement in drug trafficking or other organized crime.

66. While many States have now introduced better regulatory and investigation systems aimed at countering terrorist financing, it is difficult to assess their impact. They will have prevented some terrorist financing and forced terrorists to use other, possibly less reliable, ways to raise, store and move money. But in addition to introducing stricter financial regulation, States should make more effort to identify terrorist financiers, who are the easiest targets for sanctions and the most vulnerable to them, as well as the financing channels they use, to ensure that further regulation is correctly targeted.

Box 2

Commercial activities funding Al-Itihaad Al-Islamiya in Somalia

During its visit to Kenya and Ethiopia, officials told the Team that a listed entity in Somalia, Al-Itihaad Al-Islamiya, continued to present a significant terrorist threat to the region. The organization ran terrorist training camps and provided sanctuary to listed individuals, including some implicated in the 1998 attacks on the United States Embassies in Nairobi and Dar es Salaam.

The officials said that as well as raising money from sympathizers in Europe and the Middle East, Al-Itihaad Al-Islamiya supported its activities through a variety of commercial ventures. In some cases its involvement was obvious, in some cases it was not, and in some cases the organization benefited by taxing the activity of other businesses. The

[28] Several members of the cell involved in the March 2004 bombings in Madrid were involved in the drug trade, and police searches of their addresses later uncovered narcotics worth over 1 million euros. The explosives used in the attack were reportedly exchanged for 25 kilograms of hashish and a quantity of money (sources: reports by the Spanish Ministry of Interior, Parliamentary Commission and Judge Del Olmo, and Interpol).

[29] UNODC, *The World Drug Report 2005*, available at http://www.unodc.org.

range of activity included the export of charcoal to the Middle East, transport, security and protection services, telecommunications, business centres, hawalas, other financial services, agriculture, hotel and hospitality concerns, and the allocation of coastal fishing rights. Some of these services had a monopoly in some areas and were even used by international aid agencies.

B. Tracing assets subject to the assets freeze

1. Using the Consolidated List

67. Based on information obtained from States, the Team notes that, increasingly, additions and changes to the List are widely circulated to financial institutions and other reporting entities, including banks, non-bank financial institutions and non-financial entities. There appears to be considerable discrepancy, however, in the design of freezing and notification procedures, and the Team believes that a summary of best practice in this area could help States to ensure effective instruments for locating and dealing with assets subject to the measures.

68. It appears that many States see their obligation to freeze assets extending no further than notifying relevant institutions and entities of the measures in place and the groups and individuals subject to them. But if regulatory authorities do not ensure that financial institutions are screening accounts and transactions in an effective and timely manner, the purpose of designation will be lost. At a basic level, the implementation of financial sanctions involves checking current and future customers against the List, whether in hard or soft copy.

69. Because many names can be rendered in a variety of ways, the task of comparing accounts and transactions against the List is a daunting one. In addition, the existence of regional and national watchlists and of lists related to other United Nations sanctions regimes makes checking a considerable undertaking. Trying to do so manually against a paper copy of the List is unlikely to achieve a sufficient level of accuracy, however dedicated the checker. Although even the best technology will not completely stop all money-laundering and terrorist financing activity, checking by computer gives a far greater chance of effective implementation.

70. The printable document format (PDF) of the List available on the Committee's website allows for fast and accurate checking, but it does not flag close spellings nor highlight exact matches when the names of an individual are written in a different order. A better method involves dedicated databases and specialized software; these are now available commercially and some larger institutions have designed their own. In fact, major financial institutions are investing substantial resources in their anti-money-laundering and counter-financing of terrorism compliance programmes, with around 80 per cent of the money being spent on systems designed to screen financial transactions.[30] This investment is expected to continue to rise as reporting entities seek to protect themselves against reputational and regulatory risk.

[30] KPMG Global Anti-Money Laundering Survey 2004: How banks are facing up to the challenge.

71. But smaller entities do not have the resources to develop their own systems, and may find commercially available ones too expensive, and the Team recognizes that a large number of States and their institutions, public or private, will continue to use the List in hard copy. Nonetheless, the Team recommends that the electronic format of the List on the Committee's website should be built on a platform that allows broader search functionality, for example, searching based on phonetics and on close, or alternative spellings. The Team also recommends that Member States should be provided with guidance on how best to make an effective search against the current PDF format. This could be posted on the Committee's website.

72. The Team also recommends that, wherever possible, States should circulate the List to their national institutions in soft copy to facilitate the incorporation of the names into electronic databases. States should also encourage reporting institutions to automate their transactions/account screening processes, for example by seeing this as a mitigating factor when assessing fines for violations[31] or through tax-related incentives. The Team notes the increasing and constructive dialogue between the public and private sector designed to promote the effective implementation of sanctions.[32]

2. Retrospective financial investigations

73. Investigation of the past transactions of a listed party, as with any terrorist individual or entity, can help to identify their present and past associates and their assets. This is an important tool in uncovering financial networks, and the Team recommends that States that report finding and freezing accounts belonging to listed parties do not see their obligation as ending there. They should also examine past transactions as far as records allow, not just to identify associates, but also to spot asset movements that may have anticipated listing or preceded implementation and consider whether these too should be subject to freezing, sharing information with other States, as appropriate. This information could also be passed to the Committee through the checklist introduced by Security Council resolution 1617 (2005).

3. Financial intelligence

74. Over 150 States have established financial intelligence units to analyse suspicious transaction reports (STR) as part of their counter-financing of terrorism effort, however, there is general concern that much of the current guidance provided to entities that submit STRs relates to money-laundering rather than to terrorism. In addition, many financial institutions complain that they have been given little or no information on what to look for as possible indicators of terrorist financing transactions. As a result much of their reporting is without value and there is a marked imbalance between the high volume of STRs generated globally and the very few assets that are found and frozen as a result.

75. The apparent lack of significant impact of the STR regime can be attributed to a number of other factors in addition to the lack of proper guidance on what to report. These include: defensive reporting, which focuses on the type of customer

[31] See Interlaken Process: Targeted Financial Sanctions: A Manual for the Design and Implementation.

[32] For example, the Euro-Atlantic Partnership Council/Partnership for Peace workshop, "Public/Private Cooperation in Combating the Financing of Terrorism", Zurich, 5 and 6 December 2005.

rather than on the character of the transaction and merely aims to protect the institution from possible regulatory action; low staffing levels in financial intelligence units; inadequate training for staff in reporting entities; lack of standardization in the electronic format of STRs, thus impeding analysis, and the sheer quantity of STRs leading to large backlogs in financial intelligence units.

76. Since the STR regime and the financial intelligence units are the backbone of the international community's efforts to prevent terrorist financing, their inadequacy gives cause for concern. States should allot adequate resources to their financial intelligence units, provide regular feedback to reporting entities and ensure that they have a proper understanding of what to look out for based on analysis of current terrorist financing patterns. States should cooperate by sharing relevant information, and the Team recommends that the Committee encourage States to do so.

Box 3

Indicators of possible suspicious activity associated with the Hamburg cell involved in the attacks in the United States on 11 September 2001

The German authorities' investigation of the financial operations of the Hamburg cell involved in the September 2001 attacks in the United States uncovered certain patterns that might have been detectable to alert bank employees and reportable under the STR regime, including the opening of checking accounts by male students from Islamic countries where terrorism was a concern and the use of foreign identity documents with proof of residence supported by student permits. In addition, the accounts were initially opened based on temporary addresses, although, over time, frequent address changes were recorded. Several individuals opened accounts at the same financial institution using a common address. A stronger degree of association emerged subsequently as members of the group opened joint accounts, or granted powers of attorney to each other regardless of family connections or shared nationality.

Money was withdrawn soon after being deposited, usually through a succession of small withdrawals from automated teller machines (ATMs), suggesting cash distribution to a group of people. Frequent ATM balance requests were made, possibly to avoid contact between the depositors and the users of the funds. Use of ATM cards abroad, when the cardholder had not travelled, and deposits made abroad, always in cash, may also have been significant. These showed sources of income not previously disclosed to the bank and suggested that such funds may have been received through alternative remittance systems. Neither deposits nor withdrawals were made by cheque. Nor were credit cards used, except in connection with a period of residence abroad.

Another significant feature was the absence of common debits, for example to meet basic living expenses such as rent, utilities, insurance premiums or automatic payment orders. Most movements into and out of the accounts remained below reporting thresholds. The account holders showed no particular interest in buying savings, insurance or investment

products, in spite of the substantial aggregate amounts credited to the accounts. Another unusual feature was that inward remittances, supposedly meant for student expenses, were subsequently wired to payees overseas.

Source: Office of the German Federal Prosecutor General.

77. The heightened surveillance of the regulated sector has led Al-Qaida to rely increasingly on informal systems for raising, storing and moving funds, and States should continue to look for ways to encourage broad awareness of the sanctions regime among enterprises that could be used by terrorists to finance their operations, and even among the general public.[33] States should encourage as wide a system of reporting as possible.

C. The meaning of asset freezing

78. There are useful definitions of asset freezing,[34] which States may use when designing instruments to implement financial sanctions, but as sanctions are preventative, rather than punitive, and do not depend on any judicial process (see footnote 8), States may recognize an obligation to preserve their value. This has led one State[35] to manage frozen assets rather than merely place them in suspense, and another State[36] is looking at similar methods. The Team believes this approach could have more general application.

79. Financial assets are also susceptible to deterioration in value, whether through changes in market conditions, such as exchange rates, interest rates, inflation, and the like, or through other commercial risks such as the collapse of the bank where they are held, especially in weak banking systems where deposits are not protected by insurance schemes. The Team believes that ideally, frozen funds should be held centrally in low risk, interest-bearing form such as government bonds, or in central banks, to minimize the risk of loss and to ensure proper control.

[33] For example under paragraph 15 of Decree No. 2 of 3 December 2004, the Albanian Government ordered anybody with a contractual obligation towards (the listed) Yasin Al-Qadi, his companies or investments to deposit moneys owing into an account opened by the Minister of Finance at the Central Bank of Albania.

[34] For example, European Council Regulation (EC) No. 881/2002 defines freezing of funds as "preventing any move, transfer, alteration, use or dealing with funds in any way that would result in any change in their value, amount, location, ownership, possession, character, destination or other change that would enable the use of funds including portfolio management". The regulation also defines freezing of economic resources as "preventing their use to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging".

[35] Albania: the portion of properties attributed to a listed individual, Yasin Al-Qadi, will continue to generate rental income while it is frozen. The properties will be occupied by Government departments, which will pay rent into a frozen account at the Central Bank.

[36] For example, the Committee has agreed to allow a listed entity to continue operating under the close supervision of the Italian authorities, see box 1 above.

80. States should take care to seize or otherwise secure tangible assets that may be sold or otherwise transferred for value when implementing the financial sanctions.[37] The Team notes that many States have only reported freezing bank accounts without indicating what action they have taken against other assets. The Team recommends that where States have seized other assets, they should report their nature and value to the Committee.

D. Regulation of non-profit organizations

81. Abuse of a non-profit organization may take various forms; at worst a charity could be taken over by Al-Qaida terrorists or their supporters. Lessons learned from investigation of listed and other abused non-profit organizations provide the best resource for States wishing to ensure proper safeguards, and States should share whatever information they have. Box 4 below provides a summary of indicators collected by the Team during a conference on related issues.[38]

Box 4
Red flags of abuse of charitable organizations

States that have investigated listed charities have identified the following patterns: informal solicitation of donations; transactions that are more complicated than is necessary; actual use of funds different from stated purpose at time of collection; absence of a donor list; hidden donations; little or no fund-raising expenditure, possibly indicating a few wealthy donors; and funds transfers to the same overseas beneficiary through multiple bank accounts.

Other indicators include funds transfers between bank accounts of related entities; funds transfers through intermediary jurisdictions (for example, off-shore centres) rather than directly to the location of the beneficiary; negotiation of third party cheques and their deposit in foreign bank accounts; lack of involvement by locals in the affairs of the non-profit organization, coupled with very closed control; use of a commercial mail box as an address for correspondence, indicating a possible attempt to conceal actual location; cash debiting schemes, that is, deposits are matched by ATM withdrawals in another country; overlap of corporate officers and the use of the same location by several charities and related corporations and partnerships; and incoming funds transferred as donations to other organizations rather than used directly for charitable work.

[37] Officials told the Team that a listed entity, in a State that has not reported freezing assets, has sold or otherwise disposed of its assets (including properties) since listing.

[38] OSCE Conference on Combating the Financing of Terrorism, November 2005, Vienna.

E. Role of the Financial Action Task Force

82. The recommendations of the Financial Action Task Force (FATF) provide international standards for combating money-laundering and the financing of terrorism and were further endorsed by the Security Council in paragraph 7 of its resolution 1617 (2005), which strongly urged States to implement the FATF 40 recommendations on money-laundering and the nine special recommendations on terrorist financing. One hundred and thirty-four States are now members of FATF, or FATF-style regional bodies, and over 40 States underwent evaluation within this framework in 2005.

VI. The travel ban

83. Listed persons continue to travel, despite the mandatory language of the travel ban, whether via the use of stolen, lost or fraudulent travel documents or through the inattention/disregard of the sanction by Member States. But, in cooperation with Interpol, the Security Council and the Committee have developed new initiatives to prevent the travel of individuals on the Consolidated List.

A. Overview

84. As with the other sanctions, resolution 1617 (2005) continued the travel ban on listed individuals and entities and offered new guidance on ways to strengthen it. The resolution: (a) welcomed the efforts of the International Civil Aviation Organization (ICAO) to prevent travel documents from being made available to terrorists and their associates; (b) encouraged Member States to work within the framework of Interpol, in particular through its database of stolen and lost travel documents, to reinforce the sanctions; (c) urged States to ensure that stolen and lost passports and other travel documents are invalidated as soon as possible and to share information on these documents with other States through the Interpol database; and (d) requested the Secretary-General to take the necessary steps to increase cooperation with Interpol to assist the Committee and States with implementation of the sanctions (resolution 1617 (2005), preamble and paras. 8 and 9).

85. Paragraph 1 (b) of resolution 1617 (2005) contains the same language as in prior resolutions to describe the scope of the travel ban, namely, that States shall "prevent the entry into or transit through their territories" of persons on the List, except in certain defined circumstances. A frequent question has arisen as to the meaning of "transit through"; specifically, whether it also obliges States to prevent the departure of listed persons from their territories. While the Team believes that by adding the words "transit through", the Security Council appeared to forbid more than the simple entry of a listed person into a State's territory, the resolution may not prohibit all "departures from" a territory, because the Council could easily have said so. The Council or Committee may wish to offer guidance on whether a State violates the travel ban by permitting a listed party to depart its territory or under what circumstances this might be allowed.

B. Implementation of the travel ban

86. The Committee might wish to consider several instances of listed persons travelling between States that have come to the Team's attention. Notable examples include Dawood Ibrahim, an Indian crime lord sharing his smuggling routes with Al-Qaida and supporting terrorist attacks, who reportedly travelled to countries in the region around the time of his listing in 2003;[39] Shaykh 'Abd-Al-Majid Al-Zindani, who travelled from Yemen to Saudi Arabia for a conference in December 2005;[40] Fazul Abdullah Mohammed, a Comorian-Kenyan dual national wanted in connection with the 1998 United States Embassy bombings in East Africa, who is believed to have travelled under false identities to Ethiopia, Somalia and the United Arab Emirates;[41] and various Taliban, including Abdul Kabir, a top-level member of the Taliban and former Provincial Governor in Afghanistan, who was believed arrested by Pakistan authorities in July 2005,[42] although this was denied by the Taliban.

87. Besides evading border controls altogether, the primary method by which listed and non-listed terrorists continue to travel appears mainly to be through the use of fraudulent, forged or stolen travel documents. A September 2005 study of foreign-born terrorists who had operated in the United States concluded that about two thirds had engaged in fraud to enter or remain in the country, with more than one third subsequently charged with passport or visa fraud or of making false statements to an immigration official.[43] Many other States, particularly those in Africa and Central Asia, reported similar problems of travel document fraud during the Team's recent visits.

88. Despite the reports of illicit border crossings, there has been notable progress in combating the travel of listed terrorists and their associates. Interpol continued to report an increase in the number of countries participating in its Stolen and Lost Travel documents database, from 75 in June 2005 to 93 Member States (and the United Nations Interim Administration Mission in Kosovo (UNMIK)) as of the end of January 2006, and the database now contains information on more than 10 million stolen and lost travel documents, which States can access to bolster their border security.[44]

89. Member States also continued to report progress in implementing the travel ban measures. Although more States reported their plans to introduce biometric travel documents and to computerize border control posts to the Team, many

[39] United States Department of Treasury fact sheet, available at: http://www.treas.gov/press/releases/js909.htm; Testimony before the United States House of Representatives, available at: http://www.house.gov/international_relations/108/rama1029.htm. Although official sources confirmed Dawood's travel near the time of his listing, the Team has not confirmed media reports that he also travelled in 2005.

[40] Public information corroborated by a Member State.

[41] Information provided by a Member State; International Crisis Group Report, Counter-Terrorism in Somalia: Losing Hearts and Minds, 11 July 2005, available at: http://www.crisisgroup.org/home/index.cfm?id=3555&l=1.

[42] Assynt Associates, Rest of the World update, 2-22 July 2005.

[43] See "Immigration and Terrorism: Moving Beyond the 9/11 Staff Report on Terrorist Travel", Center for Immigration Studies, Sept. 2005, located at http://www.cis.org/articles/2005/kephart.html.

[44] Interpol provided this information to the Team.

countries, particularly less developed countries, face enormous difficulties in securing long, poorly defined and often mountainous borders and continue to request technical and economic assistance to do so.

90. Much of the data available to the Team on the travel of listed individuals is anecdotal, based on isolated reports, the occasional published study or publicly available Government orders (such as the recent Italian decision to expel Daki Mohammed to Morocco, his place of birth).[45] Given the importance of this issue to the global community, the Team continues to recommend that the Security Council or the Committee require States, where appropriate, to submit updated information when they locate listed persons within their territory so this data can be shared and perhaps added to the List (S/2005/572, para. 122; S/2005/83, paras. 49 and 124).

C. Interpol-United Nations Security Council special notices

91. Key to the successful implementation of the sanctions, as well as to combating terrorism generally, is locating the terrorists and their supporters on the List, whether by intelligence and law enforcement agencies trying to prevent attacks or resolve past ones, customs and immigration officials securing their country's borders or financial institutions implementing the assets freeze. In December 2005, the United Nations and Interpol introduced an important initiative in this regard by launching the Interpol-United Nations Security Council special notices.

92. The Interpol-United Nations Security Council special notices are, in essence, a type of "wanted" poster,[46] for use in identifying persons on the Consolidated List. The public version of the notices, available on the Interpol website,[47] provides for each individual, where available and authorized by the Member State, his/her name, photograph(s), gender, physical description, distinguishing marks and characteristics, date and place of birth, other names or aliases, nationality, languages spoken and information regarding identity documents, such as passport details. The notices list the applicable Security Council resolutions and the sanctions to be imposed and provide contact details for persons with information regarding the listed party at issue. The public version of the notice for the notorious terrorist Zarqawi, for example, is reproduced below in box 5.

[45] See http://www.interno.it/salastampa/comunicati/elenchi/comunicato.php?idcomunicato=924.

[46] Although the Team uses the term "wanted" poster to describe the appearance of the notices, it cautions that, because commission of a criminal offence is not necessary for inclusion on the List, many of the listed persons for whom notices will be issued will not actually be "wanted" for arrest, but merely "wanted" for application of the sanctions. The notices will include the additional information when someone is "wanted" for arrest, as in the Zarqawi notice.

[47] See http://www.interpol.int/Public/NoticesUN/Default.asp.

Box 5

Interpol-United Nations Security Council Special Notice

Subject To UN Sanctions

AL KHALAYLEH (ALIAS AL - ZARQAWI), Ahmad Fadil Nazal

2003/16476 AL KHALAYLEH (ALIAS AL - ZARQAWI) AHMAD FADIL NAZAL
2003/16476 AL KHALAYLEH (ALIAS AL - ZARQAWI) AHMAD FADIL NAZAL
2003/16476 AL KHALAYLEH (ALIAS AL - ZARQAWI) AHMAD FADIL NAZAL

Identity Particulars	
Present family name:	**AL KHALAYLEH (ALIAS AL - ZARQAWI)**
Forename:	**AHMAD FADIL NAZAL**
Sex:	MALE
Date of birth:	30 October 1966 (39 years old)
Place of birth:	AL ZARQAA, Jordan
Language spoken:	Arabic
Nationality:	Jordan
Other Names:	ABOU MUSAAB EL ZARQUAWI , ABU IBRAHIM , ABU MUSAB AL ZARQAWI , AL KHALAYLEH , AL MUHAGER , AL MUHAJER , AL ZARQAWI , ALKHALAYLEH , AZZARKAOUI , EL KHELAI ALLAH , EL KHELLAI ALLAH , EL ZARQUAWI , GARIB , MUHANNAD , ZARKAOUI
Other Forenames:	ABOU MOUSSAAB , ABOU MOUSSAB , ABOU MUSAAB , ABU MUSA'AB , AHMAD FADIL NAZAL , AHMED , AHMED FAD AL NAZZAR KHALAYLAH SAID , AHMED FAD AL NAZZAR KHALAYLAH SAID ABU MUSAB
Other Dates of Birth:	20 October 1966 , 30 October 1966

Identity Documents			
Type	**Nr**	**Issued on**	**Place of Issue**
PASSPORT	264958	4 April 1999	
IDENTITY CARD	1433035	4 April 1999	ALZARQA

Physical description	
Height:	1.80 meter <-> 71 inches
Colour of eyes:	BROWN
Colour of hair:	CHESTNUT

UN Sanctions
Pursuant to Security Council Resolution 1267 (1999) and successor resolutions including Resolution 1617 (2005) , the Subject is under the following UN Sanctions: Freezing of Assets, Travel Ban and Arms Embargo.

WANTED by Interpol

UN Sanctions	
YOUR NATIONAL OR LOCAL POLICE	
	ICPO-INTERPOL General Secretariat, (Command & Coordination Center, Tel: +33 472 44 76 76 / +33 472 44 79 80 - Email : ccc@interpol.int

©Interpol, 29 January 2006.

93. In addition, Interpol will maintain, within its I-24/7 global police communication system, a restricted version of each of the notices, including law enforcement-confidential information, such as fingerprints and details of relevant national investigations and operations under way. This information will be available round-the-clock on Interpol's restricted website to the National Central Bureaus of Interpol in each of its 184 member countries.[48]

94. The Committee and Interpol have only just begun the process of creating and issuing notices for each of the relevant United Nations-listed individuals. As more notices are published during the coming year, the chances of locating, identifying and, where appropriate, apprehending listed terrorists and their supporters should increase markedly because, rather than just appearing as a few lines on a lengthy List, designated individuals will become recognizable by their faces, descriptions and other identifying details.

[48] The partnership between the Committee and Interpol is already yielding results. After the first four Interpol-United Nations Security Council special notices were published in December 2005, law enforcement authorities recognized that the name on one notice, for Ahmed Tariq Anwar El Sayed, was similar to a name already contained within Interpol's database (only one letter of the name was different and the names were transposed). The country that had supplied the data to Interpol confirmed that the two names involved the same person and supplied Interpol with both a photograph and sketch, which are being added to the relevant special notice.

95. Establishment of the Interpol-United Nations Security Council special notices required extraordinarily close cooperation between the two organizations over the past year, as well as the agreement of the Interpol General Assembly and the 1267 (1999) Committee. The Team believes that, with such momentum behind the notices, the Security Council and the Committee should formally notify Member States of their existence and encourage them to distribute the notices widely throughout relevant national Government departments, as well as to non-governmental entities that might benefit from such information. Wide distribution of a special notice in an area where a featured individual was known to live or operate would be particularly valuable.

96. Along with informing States about the special notices and encouraging their distribution, the Team proposes that the Committee request that States submit to Interpol, where appropriate, any additional law enforcement and related information, such as photographs, fingerprints, physical descriptions and other identifying information, that they possess. States also should be encouraged to provide this information to Interpol when they propose a listing to the Committee. This will enable Interpol to include it on the Interpol-United Nations Security Council special notices as they are being issued and make them much more useful.

D. The International Civil Aviation Organization

97. In resolution 1617 (2005), the Security Council welcomed the work of ICAO to prevent travel documents from being made available to terrorists, and the Team met ICAO officials in November 2005 to discuss ICAO standards, practices and guidance to States to see how they might further reinforce the sanctions regime. There appear to be several areas of convergence between the work of ICAO and the 1267 (1999) Committee, and the Team plans in due course to make recommendations on specific areas for cooperation.

98. The Team has referred to ICAO travel document security standards in its previous reports (see S/2005/83, para. 130) as well as to its work on new standards for biometric systems in passports (S/2005/572, para. 126). The Team regards this work as of great importance in undermining the widespread use of and flourishing trade in stolen and forged passports. Although ICAO standards are not enforced through sanctions, there is some incentive for States to comply as other States may choose to impose rigorous visa requirements on the nationals of any State that does not comply as a way of introducing additional means of protection.

99. While all 189 ICAO contracting States have agreed to issue machine-readable passports by 2010, the long renewal cycle of travel documents could delay the full impact of the measure for some years. Therefore, these States also have agreed that, in the case of passports issued after 24 November 2005 that are not machine-readable, they shall ensure that the expiration date falls before 24 November 2015. This should significantly improve the enforcement of the travel ban.

100. In discussion with ICAO, the Team discovered that its standards and recommended practices, including those on inadmissible persons,[49] do not specifically provide for dealing with listed individuals, and there may be a need to

[49] Contained in the Convention on International Civil Aviation, annex 9. See United Nations, *Treaty Series*, vol. 15, No. 102.

elaborate a wider set of procedures for dealing with individuals caught attempting to evade the travel ban. As well as considering recommendations for the Committee on this point, the Team intends to study further how the provisions of the sanctions regime might be included in pertinent ICAO guidelines and related documents.

101. Meanwhile, in order to improve the understanding and engagement of aviation security officials in implementing the sanctions, ICAO has offered to place the Consolidated List and other sanctions-related information on its aviation security website and to see what changes could be made to its training materials and programmes to improve awareness and implementation. The Team recommends that the Committee respond positively to this offer.

VII. The arms embargo

A. Overview

102. The great majority of States that have been targeted by Al-Qaida implement the arms embargo efficiently and listed terrorists must resort to improvised methods to mount attacks. Other States struggle with implementation and face the threat of terrorist attack across a wide front. A small number are unable to implement the measures at all and terrorists are able to breach the arms embargo at will.

Box 6

Breaches of the arms embargo in Iraq, Afghanistan and Somalia

The lack of central authority in Somalia allows Al-Qaida associates there to evade the arms embargo at will. The Monitoring Group on Somalia, re-established pursuant to resolution 1587 (2005), reported that arms continue to be trafficked for the benefit of the listed Al-Itihaad Al-Islamiya and its leaders (S/2005/625). The situation appears to be getting worse, and continued arms embargo violations present a growing threat to international security, both in the region and beyond. While matters pertaining to Somalia are primarily handled by the Committee established pursuant to resolution 751 (1992), developments related to Al-Itihaad Al-Islamiya are also of considerable interest to the 1267 (1999) Committee, and the two Committees may see advantage in looking together at ways to address them. The Team also intends to work closely with the Somalia Monitoring Group and with neighbouring States when investigating this issue.

With regard to implementation in Iraq and Afghanistan, both States lack the capacity to enforce the embargo and listed individuals and groups are able to circumvent it with little difficulty. Al-Qaida in Iraq and its associates are constantly attacking Government and Coalition forces as well as carrying out terrorist atrocities against civilians. A large amount of weaponry from former army stockpiles is available, and Al-Qaida in Iraq is able to train its cadres in its use. It has also made Iraq a launching pad for attacks in other countries, notably Jordan, where Al-Qaida-related terrorists carried out an attack against a United States Navy ship in Aqaba in August 2005, using artillery rockets

smuggled from Iraq, and against three hotels in Amman in November 2005, using explosive vests. Recruits and possibly training have also been supplied from outside Iraq, and neighbouring States must fulfil their obligation to prevent breaches of the arms embargo "from their territories or by their nationals outside their territories" (resolution 1617 (2005), para. 1 (c)).

The frequent attacks by the Taliban and Al-Qaida-related terrorists in Afghanistan show that arms embargo violations persist despite the Government's disarmament programme. Suicide bombings have also become a trend. It is hard to imagine any effective implementation of the arms embargo while central authority remains so weak and so many arms are drawn into the country to protect the drug trade.

B. Conventional arms

1. Explosives and terrorist bombings

103. Clearly, terrorists will use the most reliable and effective arms that they can obtain. Given the opportunity, they will use military-grade explosives and related materiel over commercially produced alternatives. In Iraq and Afghanistan, Al-Qaida, the Taliban and associated groups will continue to use military-grade materiel to construct improvised explosive devices for so long as supplies last and their acquisition is possible. Elsewhere groups have been forced by effective controls and the need to evade detection to adapt and improvise devices from more easily obtained products. It is essential that States ensure that their control regimes, for both military and commercial explosives, are as robust as possible.

104. The regulation of commonly available materials from which a trained terrorist might construct an explosive device is a more difficult task. Nevertheless, since in several cases previously undetected Al-Qaida cells have used such explosives to devastating effect, several States have adopted methods to limit access to critical precursors. The Team continues to examine these initiatives and to consult State officials so as to develop practical recommendations for the Committee's consideration.

Box 7

Some recent bombings: improvised and military-grade explosives

The four bombs that exploded in London on 7 July 2005 each contained home-made high explosives known as triacetone triperoxide (TATP), as did those that failed to go off two weeks later. This cheap and easy-to-make explosive can be synthesized at home from commercially available components (by mixing hydrogen peroxide and acetone with an acid used as a catalyst). But while the method is relatively simple, the resulting explosives are, unlike military explosives, unstable and unreliable.

This use of home-made explosives demonstrates the adaptability of Al-Qaida-related terrorists in countries that implement the arms embargo effectively. The London suicide bombers did not even need to procure and install efficient detonators, as was the case with the more technical, delayed explosions in Madrid in March 2004.

In Indonesia, Jemaah Islamiyah appears to have moved away from large, vehicle-borne improvised explosive devices, composed of commercial or improvised explosives (potassium chlorate, sulphur and aluminium powder combined with a primer such as TNT) as used in the first Bali bombing in October 2002, towards a more targeted approach where individuals carry smaller bombs into the target area, as seen in the second Bali attacks in October 2005. The change of tactics appears to be based on the improved capacity of Indonesian officials to detect and stop suspicious vehicles approaching target locations, combined with a desire to reduce collateral damage, including casualties among the local population. This adjustment may demonstrate that members of Jemaah Islamiyah have increased their technical expertise in preparing attacks. In fact, Azahari Husin provided explosives training to such operatives by adapting "kitchen recipes" found on the Internet before he was killed in November 2005.[50]

In Amman, on 9 November 2005, suicide bombers attacked three hotels, killing 60 people and injuring at least 115. A fourth attacker failed to detonate her bomb and was arrested a few days later. The attacks were carried out using military grade explosives packed into sophisticated explosive vests. The devices contained two blocs of PE4A, a RDX-type explosive, connected to an electric detonator and a back-up, mechanical detonator, using parts from a type F1 hand grenade fuse assembly. According to Jordanian official sources, the explosive vests were made by Al-Qaida in Iraq, using explosives and grenades taken from former Iraqi Army stockpiles and smuggled into Jordan.

2. Small arms and light weapons

105. In addition to improvised explosive devices, Al-Qaida, the Taliban and their associates have continued to acquire and use small arms and light weapons in areas where there is little capacity to implement the arms embargo. Within this category, terrorists have managed to obtain man-portable air defence systems, anti-tank guided missiles and artillery rockets. These weapons are sought because they are compact and offer terrorists the ability to attack safely from afar and cause meaningful damage. In some cases, lack of technical expertise has limited the accuracy of the weapons used and therefore the damage caused by such attacks, but as long as terrorists can establish training camps in areas of weak central control and gain combat experience in Afghanistan and Iraq, the quality and the quantity of expertise available to them are likely to increase.

[50] Australian official sources.

106. The Team has already reported at length on the threat from man-portable air defence systems (S/2005/83, paras. 104-111, and S/2005/572, paras. 101 and 113 and annex VI). Although terrorists have not used such systems recently to attack civil aviation or other targets outside conflict zones, the stock available remains uncontrolled and the possibility of their use is real. For example, in the latter half of 2005 the Ministry of Interior of Tajikistan discovered over 50 missiles for man-portable air defence systems in caches believed to belong to the Islamic Movement of Uzbekistan, a listed entity. The international community has continued to work on initiatives to raise awareness of this threat and to find ways to reduce it. The Australian Government, which currently chairs the Wassenaar Arrangement, has introduced a threat reduction initiative on the use of these systems to the Association of Southeast Asian Nations (ASEAN) Regional Forum. This approach follows the commitment made by Asia-Pacific Economic Cooperation (APEC) Ministers in November 2005 to conduct, before the end of 2006, an assessment of airport vulnerability to attack by man-portable air defence systems. At this stage, it seems that while the threat can be moderated, there are no foolproof measures to prevent an attack against a civilian aircraft by either protecting planes or by reinforcing the security of airports.

107. The Team will continue to discuss man-portable air defence systems with ICAO and other relevant bodies, some of which have already devised control systems, including: export criteria and licence types; controls on retransfer and end-user certificates; restrictions on non-governmental end-users; restrictions on destinations; and delivery verification. Although these measures belong to wider regimes beyond the scope of the arms embargo, its effective implementation depends on the existence of such regulation.

C. Chemical, biological, radiological and nuclear terrorism

108. In its previous reports the Team concluded that the most likely chemical, biological, radiological or nuclear-related device that Al-Qaida, the Taliban or their associates might use was a radiological dispersal device or "dirty bomb". Although no actual case has emerged since the Team's last report, there is continued concern that listed groups and individuals retain their ambition to mount such an attack, coupled with a number of reports that an illicit supply of radiological materials still exists, including in areas where Al-Qaida and the Taliban are active.[51]

109. Following its last report, the Committee asked the Team (S/2005/760, sect. IV) to make specific recommendations with regard to the threat of a chemical, biological, radiological or nuclear attack by Al-Qaida and the Taliban, and the Team has continued to discuss this with the experts appointed to assist the 1540 (2004) Committee, relevant international bodies and the scientific community. At this point, the Team merely recommends that the Committee, for example in its guidelines or other documents, provide a more detailed clarification of the scope and application of the arms embargo, including as regards chemical, biological, radiological or nuclear-related materiel and technical expertise. Secondly, the Team recommends that the Committee approach, whether directly or through the Team, intergovernmental organizations such as IAEA and the Organisation for the Prohibition of Chemical Weapons (OPCW), which deal with related issues, to

[51] IAEA Illicit Trafficking Database Office; information from a Member State.

ensure that their work effectively takes into account the requirements of the arms embargo. The Team will continue to elaborate a set of recommendations covering this threat.

D. Technical advice, assistance and training

110. Training is an essential precursor to any successful attack, and it is important to remember that the arms embargo specifically includes training (resolution 1617 (2005), para. 1 (c)). Local cells of Al-Qaida-related terrorists have managed to improvise ad hoc training, or to download instructions from the Internet, but there is no substitute for proper training camps, both in terms of imparting military, paramilitary and terrorist skills and as an opportunity for radical indoctrination. The effective and reliable use of modern weapons requires extensive practical training in field conditions, and while basic operation may be simple enough to learn, even online, unforeseen and sudden operational complications may cause insufficiently trained operatives to bungle their attacks. It is important therefore that States do not lose sight of this element of the embargo. The Committee may wish to remind them of it as opportunity arises, encouraging them to submit for listing the names of those providing "technical advice, assistance, or training related to military activities" (resolution 1617 (2005), para. 1 (c)) in violation of the measures.

Box 8

Training for Jemaah Islamiyah in South-East Asia

In South-East Asia, the island of Mindanao in the southern Philippines is a significant training area for Jemaah Islamiyah and the Abu Sayyaf Group. Protected by former members of the Moro Islamic Liberation Front who reject the peace process between the Front and Manila, operatives of Jemaah Islamiyah have found a safe haven where they can train both their own members and those of the Abu Sayyaf Group. According to Australian official sources, training includes bomb-making and suicide bombing techniques. Information on the links between the Abu Sayyaf Group and Jemaah Islamiyah, as well as on their common training, was obtained from an instructor named Rothmat, who had acted as liaison between the groups in the province of Maguindanao between 2000 and the time of his arrest in March 2005.

Azahari Husin, the best known bomb-maker in Jemaah Islamiyah until his death in November 2005, trained, in addition to an unknown number of ordinary students, several other instructors who are still at large and are able to pass on their knowledge to cells throughout South-East Asia.

E. Improving implementation of the arms embargo

111. In order for States to be able to implement the arms embargo effectively against Al-Qaida, the Taliban and their associates, there must be a wider arms

control regime based on properly enforced legal, administrative, regulatory or other measures. Consequently, while the Team's work focuses on the individuals and entities on the Consolidated List, it has occasionally been necessary to highlight parts of the broader architecture that do not provide an adequate basis for the specific measures of the Al-Qaida, Taliban sanctions regime. States should not, however, rely on improvements to broader arms control measures to allow full implementation of the arms embargo. Its specific nature demands specific regulation, in particular with regard to attacks using improvised and unconventional methods. The Committee may wish to remind States of this fact.

112. The issue of stockpile security has a wider scope than the arms embargo, but it should also be considered in this context. The Team has been briefed by several States on their efforts to improve stockpile security. A useful first step taken by States has been to define those stockpiles of ammunition and explosives that are necessary for legitimate purposes of self-defence and to destroy the rest. International and regional organizations offer significant assistance for the improvement of stockpile security, and the Committee may wish to point out to States the importance of this work in reducing the risk of illicit arms trafficking, in particular with regard to high explosives, man-portable air defence systems, anti-tank guided missiles and artillery rockets.

113. Even in States with little central authority, it is unlikely that arms, materiel or technical assistance would be openly provided to individuals or entities on the Consolidated List. In States where the embargo is enforced more robustly, listed entities are even more likely to employ unlisted operatives as intermediaries for this purpose. The exchange of information between States on such individuals must be a high priority, but even more important is their inclusion on the Consolidated List.

VIII. Member State reporting

A. Non-reporting States

114. One of the Team's primary sources of information is the reports submitted by Member States under Security Council resolution 1455 (2003). Thirteen additional States reported in 2005, six[52] since the Team last reported in June. There are now 45 States that have not reported, 31 of which have also not reported to the 1540 (2004) Committee, and are behind in reporting to the Counter-Terrorism Committee. Of these, 24 are in Africa, 10 in Asia, 10 in Latin America and the Caribbean and one in Eastern Europe. These reports are essential for an initial assessment of overall implementation of the sanctions measures and an analysis of assistance needs according to a State's vulnerability to Al-Qaida-related terrorism. The Team continues to recommend that the Committee urge non-reporting States to fulfil their obligation.

B. Promoting reporting

115. In its report, dated 29 December 2005, the Working Group on Sanctions noted the increasing fatigue among Member States with regard to their reporting

[52] Bhutan, Cameroon, Mali, Niger, Sierra Leone and the United Republic of Tanzania.

obligations to the various Security Council Committees and visits from different monitoring mechanisms (S/2005/842, para. 18), and the Team believes this is an important issue to address. The Team has held several meetings with the Counter-Terrorism Committee Executive Directorate (CTED) and the experts who support the 1540 (2004) Committee to consider how best to collect information from States, and has also discussed this matter with Member States.

116. For States which have provided little or no information, it is clearly important to judge whether this flows from a lack of capacity, a lack of interest or energy or a lack of will. The Team has had many contacts with non-reporting States and has not yet encountered one that appears determined not to report to the 1267 (1999) Committee nor one that has not tried, to some extent, to implement the sanctions. The consensus against Al-Qaida-related terrorism remains solid, but many States have severe problems of capacity or national coordination, which make compilation of a report extremely difficult. Other States may have capacity, but do not understand the purpose of reporting, nor what benefit may accrue nationally from doing so, while others continue to see the problem as remote and undervalue their likely contribution; some States may be embarrassed to reveal the extent of their problems with implementation.

117. The Team sees a need to address these impediments to reporting and improve the value of reports submitted. First, the Team believes that the Committee (and the Team) should continue to take every opportunity to explain the importance of receiving information from all States, not just those with the most obvious contribution. It recommends that the Committee consider putting on its website a paper explaining in simple terms the principal objectives of its work and the value of the reports of Member States in order to encourage greater understanding and participation. Second, it recommends that the Committee, in conjunction with the Counter-Terrorism Committee and the 1540 (2004) Committee, engage with particular regional groups, such as the Pacific Islands Forum[53] and the Caribbean Community and Common Market,[54] to raise regional awareness and examine possible regional approaches to the problem. These could include the appointment of a regional partner or another State with close relations with the region to act as a mentor in the preparation of reports, or a request to the Secretary-General to give this job to one of his officials. Without undermining the individual obligation of States to provide a report, the Committee might also consider what elements of a report a State could submit in common with neighbouring States, for example, as might concern the regional threat from Al-Qaida. This also would serve to promote regional counter-terrorism cooperation.

118. The Team understands that the Committee has no immediate intention to ask States for further reports, apart from the checklist required by resolution 1617 (2005), but nonetheless it also recommends that the Committee ask the Counter-Terrorism Committee and the 1540 (2004) Committee to notify it before they request a State to submit any additional reports in case there are also questions that the Committee would like answered.

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[53] Eight members of the Pacific Islands Forum have not submitted their resolution 1455 (2003) report, seven of which are common non- or late reporters to all three Committees.

[54] Eight members of the Caribbean Community and Common Market have not submitted their resolution 1455 (2003) report, six of which are common non- or late reporters to all three Committees.

C. The Checklist

119. In paragraph 10 of its resolution 1617 (2005), the Security Council called on Member States to use a checklist to report, by 1 March 2006, on specific actions they have taken to implement the sanctions measures with regard to the individuals and entities "henceforth" added to the Consolidated List. The first period for which the checklist is required has been determined by the Committee as being the six months between the adoption of the resolution on 29 July 2005 and 31 January 2006. The Team notes that the Chairman of the Committee has written to Member States to remind them of the need to submit the checklist and has also provided a convenient format for submitting this information with regard to the 24 names added to the List within the reporting period.

IX. Al-Qaida and the Internet

A. Al-Qaida use of the Internet

120. In its previous reports (S/2005/83, paras. 149 and 150; S/2005/572, paras. 145-152) the Team noted the increasing use of the Internet by Al-Qaida, the Taliban and their associates. Since then the Security Council has expressed its concern over such use, in the preamble to resolution 1617 (2005) and in resolution 1624 (2005), in which it recognized the importance of States acting cooperatively to prevent terrorists from exploiting sophisticated technology to incite support for criminal acts.

121. Current estimates suggest that over 800 million people worldwide have access to the Internet.[55] This number is bound to grow, particularly in the Middle East[56] and other areas that Al-Qaida targets. The Internet offers Al-Qaida and its associates instant communication with little or no regulation or traceability; it allows the Al-Qaida message to reach all parts of the globe, regardless of its existing influence; provides Al-Qaida operatives with anonymity; offers the opportunity for Al-Qaida to abuse sophisticated, multi-media messaging to glorify terrorist acts; enables Al-Qaida to influence traditional mass media through its websites; serves as a medium for the conduct of misleading theological debate; helps link local terrorist cells into a global Al-Qaida campaign; allows small but effective Al-Qaida groups to gain wide influence; and helps isolate potential recruits from the counter-balancing influences of family and friends.

122. Some indication of the increasing use of the Internet by Al-Qaida and its associates can be seen in the growth of terrorist websites, from 12 in 1998 to over 2,600 today.[57] Sites range from those set up to promote particular individuals, such as Shamil Basayev in Chechnya, or groups, such as Lashkar-E-Tayyiba in Pakistan, to those that aim to justify Al-Qaida-related terrorism in general, such as Voice of Jihad, or offer terrorist training, such as Al-Battar. As well as training, the hi-tech crime subgroup of the Group of Eight has summarized the aims of terrorist use of

[55] Organization for Security and Cooperation in Europe (OSCE) workshop, "Combating the Use of the Internet for Terrorist Purposes", Vienna, October 2005.

[56] Current Internet penetration in the Middle East is 16 million (8.6 per cent), http://www.internetworldstats.com.

[57] OSCE workshop.

the Internet as to: instil terror; proselytize; incite; recruit; raise funds, including through Internet-based crime; move funds and material resources, whether through online banking, or through Internet-based financial services such as e-cash; communicate securely; and plan attacks. It is no surprise therefore, that many Member States see the Internet as a key issue in combating the spread of Al-Qaida-related terrorism and the threat that it represents.

B. Possible measures to combat Al-Qaida use of the Internet

123. While counter-terrorism experts and intelligence and security officials in touch with the Team agree that something must be done to combat Al-Qaida's use of the Internet, there is as yet no agreement on what that should be. The only international legal instrument that explicitly addresses the content of the Internet is the Council of Europe's Convention on Cybercrime, to which several non-European countries have added their signature, and its Additional Protocol which criminalizes incitement.[58] Other international legal instruments, including the Council of Europe's Convention on the Prevention of Terrorism,[59] have begun to consider related issues such as terrorism incitement, recruitment and training. While this route may be a long one, the conclusion of an international legal instrument should be an objective to aim for.

124. But the situation would also seem to demand more immediate action, and various suggestions have been made to the Team for possible consideration by the Committee and the Security Council. One is to extend the sanctions regime to cover terrorist use of the Internet, in particular to prevent listed individuals and entities from hosting websites that promote terrorism.[60] Many security officials believe that this would have a significant effect and would deny listed terrorists an easy way to blunt the impact of the measures imposed upon them. An attack on Al-Qaida's communications, in addition to its finances, travel and arms, would certainly add a major new element to the sanctions regime. Others have focused on Internet sites that offer instruction in the manufacture and use of explosives, and even of weapons of mass casualty. If such sites cannot be controlled, the officials would seek some mechanism that might at least maintain and circulate a register of such sites, based on Member State contributions, which would alert others to their existence and encourage them to monitor, filter or close them.

125. Perhaps a useful example of how this problem could be addressed is the creation of a register of entities (or use of an existing registry of entities) that create websites promoting terrorism in any form. An analogous approach has been relatively successful within the industry via self-regulation through a Register of Known Spam Operations database, which collates information on such operations previously terminated by internet service providers.[61]

126. Other suggestions have been for the Security Council to urge all States to introduce "know your customer" rules for hosting companies and internet service

[58] Council of Europe, Convention on Cybercrime, Budapest, November 2001, and its Additional Protocol, Strasbourg, January 2003.

[59] Council of Europe, Convention on the Prevention of Terrorism, Warsaw, May 2005. In fact, the explanatory notes to this Convention describe its applicability as including the Internet.

[60] For example, Hani Al-Sayyid Al-Sebai (http://www.almaqreze.com) and Jama'at Al-Tawhid Wa'Al-Jihad (http://www.tawhed.ws) are listed parties that operate websites.

[61] See http://www.spamhaus.org/rokso/index.lasso.

providers. They argue that this would again limit terrorist use of the Internet and even help track Al-Qaida operatives that do so. Some proposals go further, and would have the Council urge Member States to oblige hosting companies and Internet service providers under their jurisdiction to provide relevant information to the national authorities charged with combating terrorism. Officials have also suggested that the Committee or Team convene a meeting of industry and counter-terrorism experts from interested Governments to seek practical solutions to the technical difficulties of tracking and curbing Al-Qaida use of the Internet.

127. The Team has undertaken to prepare a detailed paper on these matters for the Committee's consideration. But it recommends that the Committee and the Security Council could begin immediately to look at preventing listed individuals and entities from hosting websites that promote terrorism by calling on States, to the extent feasible, to introduce regulations that forbid this within their jurisdiction.

X. Monitoring Team activity

A. Visits

128. Since July 2005, the Team has visited 10 States and has held discussions with many international and regional bodies. A Team member also accompanied the Committee Chairman on his visits to four countries (Chad, Nigeria, Japan and Indonesia) and to two meetings of the Organization for Security and Cooperation in Europe (OSCE) in Vienna.

1. Mozambique, Swaziland and Lesotho

129. The Team's visit through Southern Africa confirmed the difficulty faced by smaller and less-developed countries in implementing the sanctions. The three countries noted their efforts to strengthen various anti-terrorism laws to bring them into line with United Nations resolutions, but a lack of capacity hinders effective implementation. The Consolidated List is used only sporadically in the financial system and control of cross-border currency movement is hindered by porous borders as well as a lack of immigration personnel. False documents are widely available and the lack of computers and other equipment to check travellers against lengthy watch lists, including the Consolidated List, presents a serious problem. Officials also noted that small arms and light weapons, left over from earlier conflicts in the region, continue to be available.

2. Kyrgyzstan, Tajikistan and Uzbekistan

130. The trip highlighted the problems faced by countries in the process of establishing legal and institutional frameworks to counter terrorism in an unsettled political, social and economic climate. While the threat of terrorism has been more of a nagging ache than a throbbing pain since the disruption of the Islamic Movement of Uzbekistan (IMU) by coalition action in Afghanistan in 2001, it still exists, and the potential for rapid regrowth by the IMU and its successor groups, such as the Islamic Jihad Group and the Islamic Movement of Turkistan, also referred to as the Islamic Party of Turkistan, is real. All three States face the almost impossible problem of controlling long and mountainous borders. The three countries are aware of the sanctions regime and are taking steps to improve

implementation, but they have yet to realize fully how the regime might help their national and regional response to the threat. The Team encouraged them to submit names to the Committee for listing and looks forward to further cooperation.

3. Uganda, Kenya and Ethiopia

131. The Team met officials in these three countries responsible for national security, financial regulation, supervision of non-governmental organizations and border control and noted a good level of awareness of the sanctions regime. All three States saw the situation in Somalia as a principal contributor to the terrorist threat to the region. They believed Somalia provided Al-Qaida-related terrorists with an ideal location for recruitment, training, concealment and recuperation. In addition, they had observed foreigners, including from Afghanistan, entering Somalia to train with Al-Itihaad Al-Islamiya, which they saw as a powerful and expanding group. They argued for a better coordinated international response.

4. Australia

132. Australia is clearly making every effort to ensure full compliance with the sanctions regime and to address regional weaknesses in implementation. The smaller Pacific States lack resources, in particular to maintain border security, and Australia and New Zealand have done much to focus the attention of international donors on this area, finding a useful partner in the secretariat of the Pacific Island Forum. As in many other areas, the widespread availability and use of false documents presents a particular problem. Australia is concerned that its neighbours in South-East Asia continue to be under threat from Jemaah Islamiyah, an adaptable terrorist organization that has responded to public disapproval and increased security measures by changing the form of its attacks to reduce collateral damage to the Muslim community. The Philippines, Indonesia and Thailand are seen as the South-East Asian countries most at risk from terrorists.

B. International and regional organizations

133. En route to Australia, the Team visited the South-East Asian Regional Centre for Counter-Terrorism in Malaysia and met the Secretary-General of the Association of Southeast Asian Nations in Indonesia. Regional organizations in several other areas also have active counter-terrorism programmes. These organizations recognize that while States have the direct responsibility to implement the Al-Qaida, Taliban sanctions regime, there are many issues which are common to a range of States. The Team believes that a regional approach to implementation of the measures can significantly improve their effectiveness, particularly where regional organizations have established operational mechanisms, binding standards or recommended best practices.

134. The Team has discussed areas for cooperation with the OSCE Action against Terrorism Unit, the Commonwealth of Independent States Regional Office for Central Asia and the Shanghai Cooperation Organization's Regional Anti-Terrorist Structure and has initiated contact with other regional organizations, such as the

Organization of American States,[62] which has established the Inter-American Committee on Terrorism, and the African Union,[63] which has established a counter-terrorism centre in Algiers. In addition, the Team is in touch with a range of international bodies such as IAEA and ICAO, and has developed a particularly productive relationship with Interpol.

C. Conferences and meetings

135. The Team attended various international meetings such as the General Assembly of Interpol in Berlin; the second East African Regional Counter-Terrorism Conference in Khartoum; the Group of Eight Counter-Terrorism Action Group meeting in London; the OSCE Workshop on the Use of the Internet for Terrorist Purposes in Vienna; the OSCE/United States Workshop on Combating the Financing of Terrorism, also in Vienna; and the Euro-Atlantic Partnership Council/Partnership for Peace workshop, "Public/Private Cooperation in Combating the Financing of Terrorism" in Zurich. These proved useful in promoting the work of the Committee, raising awareness and understanding of the sanctions regime, developing ideas to improve the effectiveness of the measures and discussing the difficulties that some States face with implementation and what might be done to help them.

D. Meetings with security and intelligence services

136. An effective way to gather information about the practical effect of the sanctions measures and the gaps through which terrorists continue to slip is through discussion with professionals who deal with these issues in their national capacity on a daily basis. Since its last report the Team has held its third regional meeting for the heads and deputy heads of security and intelligence services. Representatives attended from Algeria, Egypt, Jordan, the Libyan Arab Jamahiriya, Morocco, Pakistan, Saudi Arabia and Yemen. The concerns of this group included the challenge posed by the Al-Qaida appeal, terrorist use of the Internet, the glorification of terrorism through the media, the indefinite nature of sanctions, the need to support rehabilitation programmes and the sharing of technical and operational intelligence.

137. The value of this group has encouraged the Team to consider the formation of other, parallel and overlapping groups that could look in particular at Al-Qaida-related issues in Somalia, the Sahel and sub-Saharan Africa and South-East Asia, three areas of growing concern. At the same time, the Team invites contact with all interested intelligence and security services, and it held a useful meeting with the Dutch Security and Intelligence Service, as well as with the security services of States visited during the period, notably in Kenya, Ethiopia, Uzbekistan, Kyrgyzstan and Tajikistan. In addition, it attended a Conference for East African Security Services, held in Khartoum in September 2005, which attracted the participation of 20 States. Many of the comments and proposals made during its meetings are incorporated in the present report, but the engagement with the Team by these

[62] Ten Latin American/Caribbean members of the Organization of American States have not submitted their resolution 1455 (2003) report.

[63] Twenty-four members of the African Union have not submitted their resolution 1455 (2003) report.

security professionals shows that they regard the sanctions regime as an important weapon in combating Al-Qaida-related terrorism and as being relevant to their own national efforts to deal with the threat.

E. Cooperation with the Counter-Terrorism Committee and the Committee established pursuant to Security Council resolution 1540 (2004)

138. The Team has had almost daily contact with both the Counter-Terrorism Committee Executive Directorate (CTED) and the experts supporting the 1540 (2004) Committee. Although the mandates of the three Committees are distinct, there are three main areas of convergence where regular dialogue can identify savings in effort both for the expert teams and for Member States. The three areas all concern collecting information from States and can be broken down into: travel; reporting by States; and charting assistance needs. The Team routinely coordinates its travel plans with CTED, and has carried briefs for both CTED and the experts supporting the 1540 (2004) Committee on its visits to Member States and international organizations. The Team looks forward to its first joint visit to a Member State with CTED in February 2006, and expects this to become an increasingly common occurrence.

139. The Team has also initiated discussion with the other expert groups on possible new approaches to the reporting requirements placed on States by the three Committees, and on ways to establish more efficient systems of information sharing. In the latter context, the Team and the Secretariat have finalized the construction of a database to facilitate the efficient storage, retrieval, management and analysis of all the data which the Team has gathered. The Team has demonstrated the system to CTED and to the 1540 (2004) Committee experts and hopes that they too will find it useful.

140. In some of its visits, particularly to less-developed States, the Team has found the relevant national agencies involved in counter-terrorism to be severely underfunded, particularly in the area of border security, to the point where relatively senior officials lack access to computers and other relevant technology and others have little or no staff to perform critical tasks. The Team has passed on these details to CTED and has worked closely with it and the 1540 (2004) Committee experts on charting the assistance needs of these States.

141. CTED has compiled two matrixes based on information provided by Member States and the international donor community, one for assistance requests and one for assistance offers. The 1540 (2004) Committee experts have produced a matrix containing assistance offers, points of contact and assistance requests. The Team has also brought together information on assistance needs and offers from its contacts with States and their resolution 1455 (2003) reports, and has forwarded them to CTED. At present the three expert groups have no mandate to proceed beyond this point. The experts are keenly aware of the need to avoid duplication between themselves and with other United Nations bodies such as the Office of Legal Affairs (which provides assistance for legislative drafting under the counter-terrorism conventions) or the United Nations Office on Drugs and Crime (which has technical assistance programmes) or donor groups such as the Counter-Terrorism Action Group. Coordination is improving, but there is still a need for a better mechanism to identify complementarities and avoid duplication.

Annex

Litigation by or relating to individuals on the Consolidated List

1. As described in the main part of the present report (see sect. IV.C above), in September 2005, the Court of First Instance of the European Communities handed down major decisions in support of the Al-Qaida, Taliban sanctions programme, perhaps the most significant legal developments to date with respect to the various challenges filed by individuals and entities to their listing. The decisions of the European Court involved two of the known legal challenges (15 so far)[a] filed on behalf of persons and entities listed by the Committee.

2. Since the Team's last report, to the Team's knowledge, no new relevant challenges have been brought, although other cases have been raised, which while not challenging the sanctions per se, involve listed parties. No court has yet ruled against the sanctions programme and many of the previous challenges have been dismissed. The following represents an update on the status of relevant legal proceedings.[b]

A. Belgium

3. The Team noted in its third report that, as a result of a judicial proceeding, a Brussels court ordered the Government of Belgium to make a de-listing request to the United Nations for Nabil Sayadi and his wife, Patricia Vinck, officers of a listed entity, Fondation Secours Mondial, the European branch of Global Relief Foundation, also a listed entity (S/2005/572, annex II). Although the Government thereafter complied and initiated the de-listing request, the Committee has not publicly acknowledged any action on it. Subsequently, in December 2005, the judicial criminal investigation of Mr. Sayadi and Ms. Vinck was closed via a decision to dismiss the case by the Judges' Council Chamber of the Brussels Court of First Instance. That decision is final.

B. European Union

4. On 21 September 2005, the Court of First Instance of the European Communities handed down decisions in two cases challenging the Al-Qaida, Taliban sanctions imposed by the Security Council and the Committee. Yassin Kadi of Saudi Arabia filed one case; the other involved Ahmed Ali Yusuf and Al Barakaat International Foundation, both of Sweden. The applicants alleged that the United Nations assets freeze, which is automatically implemented in the European Union via a regulation promulgated by the European Commission, violated certain

[a] There have been five direct challenges to listings made pursuant to the Al-Qaida, Taliban sanctions both before the Court of First Instance of the European Communities and in the United States of America. Two lawsuits have been filed in Turkey, and one per country in Belgium, Italy and Pakistan. The other legal cases described in the Team's reports involved related proceedings involving listed persons, such as decisions regarding criminal investigations (S/2005/572, annex II; S/2005/83, annex II).

[b] Information provided by the Governments of Member States and by regional organizations.

fundamental rights, including the right to property, the principle of proportionality, the right to be heard and the right to effective judicial review.

5. The Court denied all the applicants' claims and upheld the sanctions, as well as the primacy of the Security Council when acting under Chapter VII of the Charter of the United Nations, but also ruled, apparently for the first time, that courts could review Security Council decisions to ensure that they comply with internationally recognized fundamental norms of human rights from which neither Member States nor the United Nations may derogate.

6. As for the specific claims, the Court ruled that the freezing of assets did not violate fundamental rights protected by jus cogens because the sanctions allowed for possible derogations, at the request of interested parties, to cover basic expenses. It also held that, given the importance of the fight against international terrorism, the precautionary and temporary freezing of funds, allowing exceptions for basic expenses, did not constitute an arbitrary, inappropriate or disproportionate interference with the right to property. As for the right of defence, the court held that jus cogens did not require a personal hearing of the sanctioned parties before the Security Council and noted that the applicants could submit through their national authorities a de-listing request to the Committee. The Court found that the applicants had not been denied the right to effective judicial review, as the court had conducted a complete review of their claims (although the court noted that issues involving Security Council decision-making were beyond its authority to review).[c]

7. Both parties appealed the Court's decision on various issues to the Court of Justice, but no hearing date has been scheduled yet. The other three cases before the Court of First Instance involving listed parties remain pending.

C. Netherlands

8. On 5 January 2006, a Dutch appeals court upheld the district court's rejection of an application by the Public Prosecution Service to ban and dissolve the Netherlands branch of the Al-Haramain Foundation, known as Stichting Al-Haramain Humanitarian Aid. The Committee listed the Netherlands branch of Al-Haramain and its chairman, Aqeel Al-Aqil, on 6 July 2004, and Dutch prosecutors thereafter sought to ban and dissolve the organization and release any credit balance of the organization's bank account to the State (see S/2005/572, annex II).

9. The district court originally ruled that the Government had not proven that the Netherlands branch of Al-Haramain, separate and apart from the international organization, had supported terrorism. The appeals court upheld this ruling, despite draft legislation in the Netherlands to ban United Nations-listed organizations, as the draft legislation has not yet been approved by Parliament. The appeals court further held that dissolving the organization required expropriating its assets, which goes further than the freezing required by the sanctions regime. The Government has not yet decided whether to appeal this latest ruling.

[c] An interesting aspect of the decision was the European Court's suggestion that a resident of a State unwilling to submit his case before the United Nations could bring a national judicial proceeding to compel the State to act. This finding is similar to a ruling by a Brussels court last year that required the Government of Belgium to submit de-listing petitions to the Committee for two persons on the List (S/2005/572, annex II).

D. Pakistan

10. As the Team noted in its third report (S/2005/572, annex II), listed entity Al-Rashid Trust filed a petition against the freezing of its assets with a court in Pakistan. According to the Government, the case is pending before the Supreme Court, and the trust's assets remain frozen during these proceedings.

E. Turkey

11. The two legal challenges filed in Turkey by listed persons, as described in the Team's third report (S/2005/572, annex II), remain pending. No substantial developments have occurred in the case filed by Yasin Al-Qadi; in the other matter, Nasco Nasreddin Holding AS has added both the Turkish Ministry of Foreign Affairs and Ministry of Finance as parties (the litigation originally had been filed only against the Office of the Prime Minister).

F. United States of America

12. United Nations-listed parties had filed five cases challenging their designations in the United States, but there has been no significant change in the status of litigation since the Team's last report. Three of the cases were dismissed years ago, and the other two remain pending.

13. In a sixth case indirectly affecting the sanctions, plaintiffs had challenged a United States Government policy requiring certain charities to certify that they do not knowingly employ individuals on relevant terrorism lists or contribute funds to terrorists. After the Government published regulations stipulating that such charities must certify that they comply with the terrorism laws of the United States, the parties agreed to dismiss the case.

United Nations S/2006/155

Security Council

Distr.: General
14 March 2006

Original: English

Draft resolution

The Security Council,

Reaffirming all its previous resolutions and statements pertaining to the situation between Ethiopia and Eritrea, and the requirements contained therein, including in particular resolutions 1622 (2005) of 13 September 2005 and 1640 (2005) of 23 November 2005, as well as the statement of its President of 24 February 2006 (S/PRST/2006/10),

Stressing its unwavering commitment to the peace process, and to the full and expeditious implementation of the Algiers Agreements,

Stressing further that lasting peace between Ethiopia and Eritrea (hereinafter referred to as "the parties") as well as in the region cannot be achieved without the full demarcation of the border between the two parties, and *recalling* that both parties have agreed to accept the delimitation and demarcation decisions of the Eritrea-Ethiopia Boundary Commission (EEBC) as final and binding,

Reaffirming its strong commitment to ensure that the two parties permit the United Nations Mission in Ethiopia and Eritrea (UNMEE) to perform its duties without restrictions and provide UNMEE with the necessary access, assistance, support and protection required for the performance of these duties, and in this regard *stressing* that demarcation of the border cannot proceed effectively unless UNMEE is allowed full freedom of movement throughout its area of operations,

Welcoming the successful convening of the meeting of the Witnesses to the Algiers Agreements on 22 February 2006 in New York, as well as the convening of the EEBC meeting on 10 March 2006 in London,

Bearing in mind the reports of the Secretary-General of 3 January 2006 (S/2006/1) and of 6 March 2006 (S/2006/140) and the options on the future of UNMEE contained therein,

Decides to extend the mandate of UNMEE for a period of one month until 15 April 2006;

Demands that the two parties fully comply with resolution 1640 (2005), in particular paragraphs 1 and 5;

Decides to remain actively seized of the matter.

06-27016 (E) 140306

United Nations S/2006/156

Security Council

Distr.: General
13 March 2006

Original: English

Letter dated 10 March 2006 from the Permanent Representative of the Congo to the United Nations addressed to the President of the Security Council

In my capacity as representative of the Current Chairman of the African Union, I have the honour to forward herewith a communiqué issued by the 46th meeting of the Peace and Security Council of the African Union, held on 10 March 2006 at the ministerial level, containing its decision on the situation in Darfur (see annex).

I should be grateful if the text of the present letter and its annex could be circulated as a document of the Security Council.

(*Signed*) Basile **Ikouebe**
Ambassador
Permanent Representative of the Republic of the Congo
to the United Nations
Representative of the Current Chairman of the African Union

06-26956 (E) 150306

Annex to the letter dated 10 March 2006 from the Permanent Representative of the Congo to the United Nations addressed to the President of the Security Council

[Original: English and French]

Communiqué of the 46th meeting of the Peace and Security Council

The Peace and Security Council (PSC) of the African Union (AU), at its 46th meeting, held on 10 March 2006, adopted the following decision on the situation in Darfur:

The Council,

1. **Takes note** of the report of the Chairperson pursuant to paragraph 5 of PSC communiqué PSC/PR/Comm.(XLV) of 12 January 2006 on the situation in Darfur [PSC/MIN/2/(XLVI)];

2. **Decides** to support in principle the transition from the African Union Mission in the Sudan (AMIS) to a United Nations operation, within the framework of the partnership between AU and the United Nations in the promotion of peace, security and stability in Africa;

3. **Decides** to extend the mandate of AMIS until 30 September 2006 to undertake the following:

(a) Contribute to the improvement of the general security situation, provide a secure environment for the delivery of humanitarian assistance and the return of internally displaced persons and refugees and to contribute to the protection of the civilian population in Darfur;

(b) Monitor and observe the compliance of the parties with the N'Djamena Humanitarian Ceasefire Agreement of 8 April 2004, the Abuja Protocols of 9 November 2004 and all such agreements in the future;

(c) Assist in the process of confidence-building;

4. **Decides** that, during the period mentioned above, every effort should be made to (a) ensure the early conclusion of a peace agreement at the ongoing seventh round of the inter-Sudanese peace talks, which opened in Abuja on 29 November 2005, (b) improve the security, humanitarian and human rights situation on the ground and (c) address the crisis in the relations between Chad and the Sudan:

(a) In order to achieve the conclusion of a peace agreement at the Abuja peace talks:

(i) **Demands** that the parties demonstrate their commitment to bring the conflict in Darfur to an end by making rapid progress on the outstanding issues at the talks, as they relate to power-sharing, wealth-sharing and security arrangements;

(ii) **Urges** the facilitators and the observers at the Abuja peace talks to lend closer cooperation to the AU mediation team and to intensify their efforts to persuade the Sudanese parties to make compromises on the outstanding issues;

(iii) **Stresses** the need for increased engagement at the highest level by African leaders and other stakeholders, to bring the parties to honour their commitments and negotiate in good faith with a view to ending violence in Darfur and concluding a peace agreement by the end of April 2006;

(b) In order to improve the security, humanitarian and human rights situation:

(i) **Requests** the Commission to immediately take all necessary steps for the consistent, flexible, broad and robust interpretation of the mandate provided for in paragraph 3 above and the tasks deriving therefrom, as spelled out in communiqué PSC/PR/Comm.(XVII), adopted at its 17th meeting, held on 20 October 2004, and in the light of the conclusions [MSC/EXP/Con.(III)] of the 3rd meeting of the Military Staff Committee, held on 25 April 2005, as endorsed by the 28th meeting of PSC, held on 28 April 2005 [PSC/PR/Comm.(XXVIII)], in order to ensure a more forceful protection of the civilian population;

(ii) **Further requests** the Commission to vigorously pursue its efforts towards reaching, as quickly as possible, the authorized strength of AMIS, i.e., 6,171 military personnel, with an appropriate civilian component, including up to 1,560 police personnel;

(iii) **Also requests** the Commission to take all necessary steps for the full implementation of the recommendations made by the AU-led assessment mission that visited Darfur from 10 to 20 December 2005, in order to enhance the capacity of AMIS in the short and medium terms, in particular with respect to operational and tactical planning, command and control, protection of civilians, joint operations management, training, use of personnel and civil/military coordination;

(iv) **Demands** that the parties cease all acts of violence and atrocities on the ground, particularly those committed against the civilian population, humanitarian workers and agencies and AMIS personnel, and fully comply with their commitments under the N'Djamena Humanitarian Ceasefire Agreement of 8 April 2004 and the Abuja Protocols on humanitarian and security issues of 9 November 2004, as well as with the decisions of the Joint Commission and relevant resolutions and decisions of the United Nations Security Council and PSC; and in particular once again **demands** that:

- The Government of the Sudan refrain from conducting hostile military flights in and over the Darfur region, expeditiously implement its stated commitment to neutralize and disarm the Janjaweed/armed militias, identify and declare those militias over which it has influence and ensure that those militias refrain from all attacks, harassment and intimidation
- The Justice and Equality Movement and the Sudan Liberation Movement/Army (SLM/A) provide AMIS with the required information to enable it to determine clearly the sites occupied by the forces on the ground, ensure the security of commercial activities in the areas occupied by their forces and, regarding specifically SLM/A, withdraw forces from contentious areas such as Graida

(v) **Urges** the parties to cooperate fully with AMIS and to do all in their power to guarantee the safety of the members of the Mission to enable it to effectively discharge its mandate and guarantee AMIS and the humanitarian agencies unrestricted access;

(vi) **Urges** the parties, pending the conclusion of a peace agreement, to contain the ever-deteriorating security situation on the ground by agreeing to the enhanced Humanitarian Ceasefire Agreement proposed to them by the AU-led mediation team, which, among other things, provides for the strengthening of the mandates of the existing Ceasefire and Joint Commissions;

(vii) In the interim, **authorizes** the AU Commission to convene an emergency Joint Commission meeting in Addis Ababa, to be chaired by the Special Representative of the Chairperson of the Commission to the Sudan, to further deliberate on the precarious security situation and take the necessary and appropriate measures against any party that is found responsible for the escalation of violence and tension in Darfur;

(viii) **Appeals** to the international community to continue to provide humanitarian assistance to the affected population in Darfur, as well as to the refugees and host communities in Chad;

(ix) **Urges** the Government of the Sudan and the rebel movements to cooperate with the Office of the Prosecutor of the International Criminal Court (ICC), as called for by United Nations Security Council resolution 1593 (2005) of 31 March 2005, and to take all necessary steps to combat impunity to ensure lasting peace and reconciliation in Darfur, and **requests** the Commission to cooperate with ICC;

(c) In order to effectively address the crisis in the relations between Chad and the Sudan:

(i) **Urges** the Governments of Chad and the Sudan to fully implement the commitments made and to facilitate the work of the existing mechanisms that have been agreed upon in the Declaration and Agreement signed in Tripoli in February 2006, and **endorses** the Tripoli Declaration and Agreement;

(ii) **Requests** the facilitators of the Tripoli Agreement to remain actively engaged in the efforts to defuse the tension on the ground and normalize the relations between Chad and the Sudan and ensure the effective functioning of the existing mechanisms agreed upon in the Tripoli Declaration and Agreement;

(iii) **Further requests** the Commission to take all necessary steps and extend all necessary assistance to contribute to the implementation of the Tripoli Declaration and Agreement, and **also requests** the Commission to prepare and submit proposals on how best AMIS can assist in the implementation of the Tripoli Declaration and Agreement, including the necessary adjustment to its current mandate;

5. **Reiterates** that, given the progress made in the initial stablization phase of Darfur and the ongoing efforts to conclude a peace agreement, steps should be taken to sustain the peace support operation in Darfur in 2006 and beyond, bearing in mind the requirements for increased integration of the different aspects of the peace efforts; in this respect, **welcomes** the adoption by the Security Council, on

3 February 2006, of presidential statement S/PRST/2006/5 commending the efforts of AU and requesting the Secretary-General to initiate contingency planning without delay, in close consultation with the parties to the Abuja Peace Talks, including the Government of National Unity, on a range of options for a possible transition from AMIS to a United Nations operation; **takes note** of the announcement by the Sudanese Government that the Sudan is prepared to accept the deployment of a United Nations operation in Darfur after and as part of the conclusion of a peace agreement at the Abuja talks; consequently, **requests** the Chairperson of the Commission to continue his consultations with the United Nations, the Government of the Sudan and other stakeholders on the modalities of the transition; and **further requests** the Chairperson of the Commission to work closely with the United Nations Secretary-General on joint planning towards that end;

6. **Stresses** that the transition from AMIS to a United Nations operation in Darfur should be informed by the following:

(a) The preparedness of the Government of the Sudan to accept the deployment of a United Nations operation in Darfur;

(b) That the decision on the mandate and size of any future United Nations peacekeeping operation in Darfur is informed by the evolving situation on the ground; in this respect, a successful outcome of the Abuja peace talks and a significant improvement in the security and humanitarian situation on the ground will be key factors in any decision of the United Nations Security Council on the nature of the peacekeeping operation in Darfur;

(c) That the African character of the mission, including through its composition and leadership, is maintained in order, as much as possible, to secure the cooperation of all the parties, which is necessary to achieve a lasting solution to the conflict in Darfur;

(d) That the lead role of the African Union in the overall Darfur peace process is maintained, including the conduct of the Abuja peace talks and the Darfur-Darfur dialogue and consultation provided for by the Declaration of Principles signed in Abuja on 5 July 2005, as well as in the implementation of existing and future agreements between the parties;

(e) That, during and after the transition, consultations are maintained between AU and the United Nations, including between PSC and the United Nations Security Council, as well as between the Chairperson of the Commission and the Secretary-General of the United Nations, particularly prior to any decision of the United Nations Security Council regarding the envisaged United Nations peacekeeping operation in Darfur;

7. **Recommends** the establishment of a committee of heads of State and Government, including the Current Chairman of AU, the immediate past Chairman, the Chairperson of PSC and the Chairperson of the Commission, as well as any other head of State or Government the Current Chairman of AU may wish to involve, to engage the Sudanese authorities and other stakeholders on how best to expedite the peace process in Darfur and on the transition;

8. **Reiterates** its appeal to AU partners to provide all the necessary financial and logistical support to sustain AMIS until 30 September 2006, as well as support the ongoing Abuja talks, and in this respect **welcomes** the envisaged convening of a

pledging conference in Brussels, with the support of the United Nations and the European Union;

9. **Calls** for an immediate end to all acts aimed at inciting demonstrations against the international community, in particular the United Nations, as well as to the unacceptable and defamatory characterization of AMIS;

10. **Emphasizes** the critical role of the United Nations Security Council in holding accountable those impeding the peace process and committing human rights violations;

11. **Decides** to remain actively seized of the matter.

United Nations S/2006/157

Security Council

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13 March 2006

Original: English

Letter dated 10 March 2006 from the Secretary-General addressed to the President of the Security Council

I have the honour to convey the attached communication, dated 2 March 2006, which I received from José Ramos-Horta, Minister for Foreign Affairs and Cooperation of Timor-Leste (see annex).

I should be grateful if the present letter and its annex could be brought to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

06-26950 (E) 160306

Annex

Letter dated 7 March 2006 from the Permanent Representative of Timor-Leste to the United Nations addressed to the Secretary-General

In reference to the letter dated 2 March 2006 from José Ramos-Horta, Senior Minister and Minister for Foreign Affairs and Cooperation of Timor-Leste, addressed to you (see enclosure), I have the honour to request that the present letter and its enclosure be circulated among the members of the Security Council.

(*Signed*) José Luis **Guterres**
Ambassador Extraordinary and Plenipotentiary
Permanent Representative

Enclosure

Letter dated 2 March 2006 from the Senior Minister and Minister for Foreign Affairs and Cooperation of Timor-Leste addressed to the Secretary-General

I refer to the letter of 17 January 2006, whereby Prime Minister Mari Alkatiri conveyed to you our request that the United Nations consider establishing in Timor-Leste a "Special Political Office" in view of the political consolidation of which the planned parliamentary and presidential elections in 2007 are part.

It is our understanding that our request is currently under consideration by the United Nations Secretariat and Security Council members. In order to help facilitate this process and following consultations with President Xanana Gusmão and Prime Minster Alkatiri, I wish to shed some light on the context and scope of our request.

As indicated above, the main purpose of our request is to ensure that Timor-Leste will continue to benefit from United Nations assistance in support of our political consolidation process leading to the 2007 elections. As you are aware, these will be Timor-Leste's first elections since our nation attained independence in 2002. Since the success of our political consolidation efforts depends in part on the success of the elections, it is crucial that the United Nations provide support for the process leading to the elections in various aspects.

In this regard, I wish to clarify that the four components listed in our request, which are not exhaustive but illustrative of the type of assistance needed to ensure an environment that is conducive to a successful conduct of elections in Timor-Leste, will be a function of many variables, including the overall security situation and political climate. Fundamentally, therefore, Timor-Leste is looking to the United Nations for sound policy guidance in electoral matters as well as support and facilitation, as appropriate, in key areas relevant to our political consideration, including in the areas of reconciliation and human rights.

Notwithstanding the progress achieved so far in building a democratic and prosperous Timor-Leste, much remains to be done. Hence we hope that our modest request will be positively considered. I am confident that with your support and the steady commitment of our friends in the international community, Timor-Leste will be able to advance on the path of political consolidation.

(Signed) José **Ramos-Horta**
Senior Minister and Minister for
Foreign Affairs and Cooperation

United Nations S/2006/158

Security Council

Distr.: General
13 March 2006

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Letter dated 10 March 2006 from the Chargé d'affaires a.i. of the Permanent Mission of the Sudan to the United Nations addressed to the President of the Security Council

Upon instructions from my Government, I have the honour to inform you that the Government of the Republic of the Sudan wishes to have retained on the list of matters of which the Security Council is seized item 4 in paragraph 9 of the summary statement by the Secretary-General on matters of which the Security Council is seized and on the stage reached in their consideration (S/2006/10 of 1 March 2006), namely the item entitled "Letter dated 20 February 1958 from the representative of the Sudan addressed to the Secretary-General (S/3963)".

I should be grateful if you would have the text of the present letter circulated as a document of the Security Council.

(*Signed*) Yasir A. **Abdelsalam**
Chargé d'affaires a.i.

06-26944 (E) 150306

United Nations S/2006/159

Security Council

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14 March 2006

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Tenth progress report of the Secretary-General on the United Nations Mission in Liberia

I. Introduction

1. By its resolution 1626 (2005) of 19 September 2005, the Security Council extended the mandate of the United Nations Mission in Liberia (UNMIL) until 31 March 2006 and requested me to provide recommendations on a drawdown plan for UNMIL, including specific benchmarks and a tentative schedule, in my March 2006 report. The present report contains those recommendations and provides an update on major developments since my report of 7 December 2005 (S/2005/764).

II. Major developments since December 2005

Political

2. During the reporting period, political activity in Liberia was dominated by the successful completion of the two-year transition process set out in the Comprehensive Peace Agreement of 18 August 2003 and the handover from the National Transitional Government of Liberia to the new democratically elected Government. It may be recalled that George Weah's political party, the Congress for Democratic Change, initially challenged the final results of the run-off presidential elections, which were certified by the National Elections Commission on 23 November 2005, and threatened not to allow the inauguration of the new Government to proceed. On 16 December, the National Elections Commission concluded its hearings on the complaints of the Congress for Democratic Change of irregularities in the conduct of the run-off election and ruled that, while minor technical errors may have occurred in the electoral process, there had been no intent to commit fraud. On 21 December, in a commendable gesture, following appeals from several regional leaders, Mr. Weah announced that he would not challenge the Commission ruling in the Supreme Court.

3. On 13 January 2006, the new members of the House of Representatives elected Edwin Snowe (Independent) as Speaker of the House and Mulbah Tokpah (Congress for Democratic Change) as Deputy Speaker of the House. Isaac Wehyee Nyenabo (National Democratic Party of Liberia) was elected to serve as the President Pro Tempore of the Senate.

06-26740 (E) 170306

4. Ellen Johnson Sirleaf was sworn into office as President of the Republic of Liberia on 16 January 2006. In her inaugural address, President Johnson Sirleaf outlined the key priorities of her administration, including national reconciliation, political inclusion, sustainable development and economic governance reforms. The President stressed her determination to take early steps to improve the quality of life of average Liberians. She promised to "wage war" against corruption and announced that all persons appointed to high offices would be required to declare their personal assets. She also vowed not to allow Liberia to be used to destabilize other countries in the subregion.

5. On 17 January, the President started announcing nominations to the Cabinet, the Supreme Court and other key positions and on 27 January, the Senate commenced the statutory confirmation hearings for the nominees. The nominees are drawn from a wide range of ethnic, religious and political backgrounds, and include representatives of both indigenous and Americo-Liberian groups. As of 1 March, the Senate had confirmed 47 out of 200 nominees.

6. The nominations to Cabinet posts have not been without some controversy. On 11 February, the President announced the nomination of Frances Johnson-Morris, current Chairperson of the National Elections Commission and former Chief Justice, for the position of Minister of Justice, while James Fromayan, current co-Chairperson of the Commission, was nominated for the position of Chairperson of the Commission. In a press statement issued 12 February, the Congress for Democratic Change challenged those two nominations, claiming that the President was rewarding those nominees for ensuring her victory in the run-off presidential elections. Those nominations are currently under review by the Senate.

7. At the same time, the President has begun to decisively address the issue of governance and corruption. On 28 January, she ordered all political appointees of the National Transitional Government of Liberia to resign with immediate effect. On 30 January, she ordered an audit of the Transitional Government and requested transitional officials to seek permission before travelling overseas, pending the conclusion of the audit. In other initiatives designed to enhance transparency in the granting of Government contracts and concessions, the President declared null and void a contract between the National Port Authority of Liberia and Global Seals System, as well as all existing forestry concessions granted to timber companies under former administrations.

Security

8. During the reporting period, the security situation in Liberia remained generally stable but fragile. Disgruntled former armed forces personnel continued to challenge the ongoing restructuring of the Armed Forces of Liberia. Despite repeated orders from the Transitional Government, former armed forces personnel also refused to vacate the Camp Schiefflin barracks, the proposed training site for the new army, where they were residing with their families. On 14 January, they finally vacated the barracks, leaving behind several stripped and roofless buildings. Widows of former soldiers of the Armed Forces of Liberia also organized disruptions in Monrovia to protest non-payment of allowances and pensions. Members of the disbanded Anti-Terrorist Unit, a militia group established by former

President Charles Taylor, organized protests, claiming that they had been excluded from the security sector reform programme and demanding salary arrears.

9. The security situation in the subregion remained volatile, particularly because of the conflict in Côte d'Ivoire. There were concerns about the movement of armed groups across the border, the recruitment of former Liberian combatants, including children, for operations in Côte d'Ivoire; and the risk that Ivorians might seek refuge in Liberia in the event of escalating violence in Côte d'Ivoire. UNMIL troops, including the UNMIL Quick Reaction Force and military observers, conducted intensified air and ground patrols of the border areas. A joint task force, which was established under the National Transitional Government of Liberia, continued to investigate cases of recruitment of Liberians and, in January, an individual was arrested on suspicion of recruitment of Liberians to fight in Côte d'Ivoire. UNMIL also monitored the border between Liberia and the Guinée Forestière region of Guinea, because of its high concentration of refugees and strategic location in relation to Côte d'Ivoire, Liberia and Sierra Leone.

10. During the period under review, various Governments and intergovernmental and human rights organizations called on President Johnson Sirleaf to request the Government of Nigeria to transfer former Liberian President Charles Taylor to the Special Court for Sierra Leone, where he is under indictment for war crimes. President Johnson Sirleaf has been consulting regional leaders and other member States on this important matter.

Humanitarian

11. The humanitarian situation continued to improve during the period under review. Since my last report, some 10,280 refugees returned to Liberia with the assistance of the United Nations High Commissioner for Refugees (UNHCR), bringing the number of registered refugees assisted to return to their place of origin by UNHCR to some 51,159. 182,146 registered refugees remain in various countries in West Africa. To date, 299,486 internally displaced persons have received return assistance, including food, while a further 24,336 are awaiting return packages. The World Food Programme and its partners also continued to distribute food to internally displaced persons, while the Ministry of Health and Social Welfare, in collaboration with the United Nations Children's Fund and the World Health Organization, vaccinated more than 1.2 million children in a nationwide polio immunization campaign.

Economic governance

12. Progress was made in the implementation of the Governance and Economic Management Assistance Programme. On 5 February, an international financial expert with co-signing authority assumed the post of Chief Administrator at the Central Bank of Liberia. International financial controllers for Liberia's state-owned enterprises, as well as an international concessions expert and budget expert for the Ministry of Lands, Mines and Energy and the Bureau of Budget, respectively, are in the process of being recruited. The Programme technical team prepared a memorandum of understanding between Liberia's state-owned enterprises, the Central Bank of Liberia, and commercial banks for the creation of consolidated

accounts, and drafted the terms of reference for an independent review of contracts and concessions, which had been earlier approved by the Transitional Government. The report of the anti-corruption study conducted by the United Kingdom Department for International Development and the United Nations Development Programme (UNDP) was also presented to the new Government.

13. President Johnson Sirleaf welcomed the Programme and called on donors to develop integrated capacity-building mechanisms to facilitate the eventual Liberian ownership of the Programme. The Economic Governance Steering Committee and the Programme technical team continued to meet regularly to monitor progress in the implementation of the Programme. The Steering Committee also adopted a monitoring framework to evaluate the implementation of the Programme process.

14. The dividends from tighter control of Government revenue are already becoming evident. The inflow of revenue into the Ministry of Finance was higher in January 2006 than it was in January 2005.

III. Assessment mission

15. In order to develop recommendations on plans for the future direction of UNMIL, including specific benchmarks, as requested by the Council in its resolution 1626 (2005), it was essential to conduct a comprehensive review of the status of implementation of all aspects of the Mission mandate, as set out in Security Council resolution 1509 (2003). Accordingly, an interdepartmental mission led by the Department of Peacekeeping Operations and comprising representatives of the Department of Political Affairs, the Office for the Coordination of Humanitarian Affairs, the Department of Safety and Security, UNDP and the Office of the United Nations High Commissioner for Human Rights travelled to Liberia from 3 to 15 February to conduct that assessment.

16. In conducting its assessment, the mission met with a broad cross-section of Liberian and international stakeholders in Monrovia and in the interior of the country, including President Johnson Sirleaf, several Government ministers and ministers-designate, members of the Legislature, representatives of political parties, civil society, international and national non-governmental organizations, as well as the African Union, the Economic Community of West African States (ECOWAS), the International Contact Group on Liberia, UNMIL and the United Nations country team.

17. In addition to taking stock of the completed and uncompleted aspects of the mandate of UNMIL, the assessment mission conducted a comprehensive assessment of the security situation in the country, including a threat analysis; reviewed the priorities and plan of action of the newly elected Government; surveyed views on the future role of UNMIL; and determined the adjustments that need to be made to the Mission mandate, size and configuration during the post-transition phase. The assessment mission also examined the respective roles of the Government, international and regional partners and the United Nations country team in the consolidation of peace in the country.

A. Status of implementation of the mandate of the United Nations Mission in Liberia

18. Security Council resolution 1509 (2003) mandated UNMIL to support the implementation of the ceasefire agreement signed by the Liberians United for Reconciliation and Democracy, the Movement for Democracy in Liberia and the Government of Liberia on 17 June 2003; develop and implement the disarmament, demobilization, reintegration and rehabilitation programme for all armed parties; provide security at key Government installations; facilitate the provision of humanitarian assistance; contribute to the protection and promotion of human rights; support humanitarian and human rights activities; support the national security sector reform programme, including the restructuring of the national police and the army; assist the Government in re-establishing State authority throughout the country; support the development of the capacity of the Liberia judicial and correctional institutions; assist the Government in restoring proper administration of natural resources; and assist the Government in the preparation of national elections.

19. By resolution 1638 (2005), the Security Council expanded the mandate of UNMIL to include the apprehension and detention of former President Charles Taylor in the event of his return to Liberia and his subsequent transfer to the Special Court for Sierra Leone. By resolution 1626 (2005), the Council further expanded the mandate of UNMIL to include providing security protection to the Special Court for Sierra Leone after the withdrawal of the United Nations Mission in Sierra Leone.

20. The assessment mission broadly concluded that UNMIL had completed many aspects of its initial mandate and had made substantial progress in implementing several remaining key tasks. However, while the overwhelming presence of 15,000 United Nations military and 1,115 police personnel had provided the security environment that had enabled the successful implementation of the Comprehensive Peace Agreement, the security situation in Liberia and in neighbouring countries remains fragile and key unfinished tasks need to be urgently completed in order to ensure sustainable peace and stability in the country.

Disarmament, demobilization, reintegration and rehabilitation

21. During the transition period, UNMIL disarmed and demobilized 101,495 combatants and collected and destroyed some 28,000 weapons, 34,000 unexploded ordnance and 6.5 million rounds of small arms ammunition. Since the formal closure of the disarmament and demobilization programme in November 2004, UNMIL has continued to collect and destroy residual weapons and ammunition, voluntarily surrendered or discovered, through search operations. This ongoing effort has so far resulted in the collection of 462 weapons, 59,972 small arms ammunition and 671 heavier munitions. In addition, UNDP is implementing the Community Arms Collection for Development Programme, which provides community development projects in exchange for weapons in Grand Gedeh, Lofa and Nimba counties. This programme will be progressively extended to other counties as funding permits.

22. Some 65,000 out of the 101,495 demobilized combatants have so far benefited from reintegration and rehabilitation opportunities through projects funded by the UNDP Trust Fund and by bilateral and multilateral donors. Approximately 37,000 ex-combatants are still waiting to be placed in reintegration programmes. While

funding is available for the majority of those former combatants, about $5 million is urgently needed to provide reintegration opportunities for some 5,125 former combatants. In addition, some 612 ex-combatants who identified themselves as foreign nationals during the disarmament and demobilization process are still waiting to be repatriated to their home countries.

Reform of the Liberian National Police

23. The restructuring of the Liberian National Police has made progress, but the shortfall in funding for the demobilization of ineligible officers has impeded the restructuring process. To date, UNMIL has trained some 1,442 Liberian National Police out of a targeted 3,500, as well as 155 Liberian Seaport Police and 358 Special Security Service personnel. A further 546 police cadets are currently undergoing field training, while 161 cadets are receiving basic training. The rehabilitation of police stations in outlying areas of the country is also progressing, albeit slowly, with some 62 police stations in the 15 counties recommissioned so far.

24. However, the emerging view is that the Liberian National Police urgently requires continued mentoring, as well as basic equipment, uniforms, arms and ammunition, vehicles and communication equipment. Moreover, police facilities at the level of zones and depots and in outlying areas require extensive renovation and rehabilitation. At the same time, members of the former national police and special security service who are not eligible to join the restructured police service are still awaiting severance payments. They must be officially retired from the police service as soon as possible, as they constitute a negative influence over the newly trained officers. Another challenge will be to ensure that members of the new police force receive regular monthly salaries. Finally, the rationalization and streamlining of other security agencies that have policing functions, such as the Bureau of Immigration and Naturalization, requires urgent attention.

Reform of the Armed Forces of Liberia

25. The demobilization of the former Armed Forces of Liberia was completed in December 2005 and, in a commendable bilateral effort, the United States launched its recruitment and restructuring programme for the new Liberian army on 18 January 2006. At the request of the new Government, the United States plans to recruit and train approximately 2,000 military personnel, who will constitute the new restructured armed forces. As of 1 March, 3,436 applicants had signed up to join the new army. However, only 1,524 applicants had passed the initial screening. The training plan has yet to be finalized, but it is anticipated that basic training will begin in mid-2006.

26. The overall mission and strength of the currently proposed 2,000 Liberian military personnel will require careful consideration, given the volatile situation in the subregion and the long-term external threats to the security of Liberia. In that regard, a number of factors will need to be carefully balanced in determining its eventual size, including the ability of the Government to financially sustain a professional and well-equipped army, the national requirements of the country and potential external threats.

Extension of State authority

27. UNMIL has facilitated the return of over 2,200 Government officials to the counties, including superintendents and customs and immigrations officials. However, the authority of the Government is still limited in most parts of the country. The dilapidated condition of Government structures, the absence of basic services and irregular payment of civil servant salaries, have contributed to the slow pace of return of Government officials to the counties. Through its quick-impact projects, UNMIL has to date supported the construction of three branches of the Central Bank in Tubmanburg, Zwedru and Voinjama, which will allow civil servant salaries to be paid in the counties.

Promotion of human rights, national reconciliation and justice

28. Some progress had been made in the promotion and protection of human rights. The Truth and Reconciliation Commission and the Independent National Commission on Human Rights have been established. The Truth and Reconciliation Commission was formally launched on 20 February and the Independent national Commission on Human Rights is in the process of appointing members in a transparent and inclusive manner and in conformity with the Paris Principles.

29. In addition, progress has been made in strengthening national legal, judicial and correctional institutions. The vetting and appointment process for judges and magistrates has been completed and new laws have been enacted including the rape law, the jury law and a law to provide for the financial autonomy of the judiciary. Several members of the legal and judicial system have also benefited from the comprehensive legal education and training programme of UNMIL. In addition, eight prisons were opened and 79 corrections officers have been recruited and are undergoing training.

30. However, State institutions and mechanisms responsible for ensuring effective human rights protection for citizens, including the police, the judiciary and the justice system, remain very fragile and underdeveloped. In addition, court buildings are either non-existent or in a state of disrepair in many counties, while the dearth of qualified judicial and legal nationals has contributed to the denial of due process and fair trials for many accused persons. Investigations are not being conducted in a timely manner, resulting in the protracted detention of accused persons, often in overcrowded prison facilities. There has also been a significant increase in reported incidents of sexual and gender-based violence, particularly rape and abuses occurring within the context of traditional practices. The denial of social and economic rights, including the rights to basic health care, primary education and adequate social amenities, primarily water and electricity, also remains a major concern, especially for those living outside Monrovia.

31. The Government will require support in restoring the rule of law, particularly in the development of a national human rights policy and plan of action; the establishment of appropriate human rights and transitional justice mechanisms; the strengthening of the legal, judicial and corrections system; the development of justice mechanisms to deal with violence against women and children; and operationalizing the Truth and Reconciliation Commission.

Restoring proper administration of natural resources and meeting the conditions for the lifting of sanctions

32. The lack of State control over the natural resources of Liberia remains a potential source of instability. The illegal occupation and exploitation of rubber plantations, including the Guthrie, Sinoe, Cavalla and Cocopa plantations, needs to be urgently addressed. In that regard, the Government and the United Nations have recently established a joint task force to review the existing concession and management agreements, the human rights situation and labour conditions on rubber plantations, and the continued occupation and exploitation of these plantations by ex-combatants. There are also large numbers of ex-combatants and unemployed youth engaged in illegal diamond and gold mining in many parts of the country.

33. The Government has made steady progress in meeting the conditions to join the Kimberley Process Certification Scheme. However, the Government urgently needs funding and technical assistance to support its efforts to join the Kimberley Process. The Forestry Development Authority is making progress in meeting the conditions for lifting timber sanctions with the support of UNMIL, and in collaboration with the Liberia Forestry Initiative, which is a partnership of Government, international and non-governmental organizations. As mentioned above, by Executive Order No. 1 of 6 February 2006, the President rendered all forestry concessions null and void. She also ordered the establishment of a Forestry Reform Monitoring Committee to take measures to institutionalize the participation of communities and civil society in forest management in a transparent manner.

B. Humanitarian and socio-economic challenges

34. The assessment mission found that while humanitarian conditions in the country have improved, many communities remain very vulnerable owing to an absence of critical infrastructure and resources. Civil administration, which should provide a safety net for vulnerable populations, is also largely absent at the county and district levels, which seriously limits the prospects for an early transition from relief assistance to sustainable rehabilitation and recovery in many communities. Because of impassable roads, particularly during the rainy season, United Nations agencies and other humanitarian actors do not have sustained access to vulnerable communities, which has resulted in an uneven distribution of aid resources throughout the country. While UNMIL engineers and members of the United Nations country team have undertaken rehabilitation work on important road networks to facilitate the return of internally displaced persons and refugees, much more remains to be done.

35. Basic services are yet to be established in many parts of the country. There are no functioning public utilities, and the vast majority of Liberians have no access to electricity, water and basic sanitation facilities or health care. Almost all medical services are provided by international non-governmental organizations and United Nations agencies. The education system is dilapidated, with a dearth of qualified teachers and available resources to rehabilitate school buildings. Roads and bridges, which are needed to open up markets, increase employment, sustain humanitarian access to rural areas and expand the overall protection environment, are in dire need of repairs.

36. Liberia is also facing formidable economic and social challenges. The Government will need to expedite its efforts to generate and manage its own resources. In particular, it will need to focus on meeting the conditions for the lifting of diamond and timber sanctions, which would provide the revenues for national reconstruction and economic recovery. The management of other critical resources, such as gold, rubber and cocoa, will also need to be given priority attention.

37. The Government will also need support in meeting the conditions to clear its $3.2 billion debt arrears. These conditions include the implementation of an IMF staff-monitored programme, the establishment of a Poverty Reduction Growth Facility and meeting the Heavily Indebted Poor Country (HIPC) Initiative completion point. In the short to medium term, the major challenge will be how to mobilize the sizeable and urgently required resources needed to undertake post-conflict reconstruction activities in the country.

C. Security challenges and threat analysis

38. The assessment mission carried out a comprehensive review of the security challenges in the country, including a threat analysis. The analysis confirmed that although progress had been made in stabilizing the country, the security situation in Liberia remains fragile. In that regard, a coordinated and sustained effort to consolidate stability, re-establish the rule of law, address potential threats to security and avert a possible spillover from neighbouring countries will be required.

39. In conducting the security assessment, the mission identified a number of potential sources of instability, including former personnel of the Liberian armed forces dissatisfied with severance and pension payments; ex-combatants awaiting reintegration and rehabilitation opportunities; members of the former Anti-Terrorist Unit excluded from the Armed Forces of Liberia demobilization exercise; ex-combatants occupying and illegally exploiting rubber plantations; other groups illegally exploiting the country's minerals; political groups marginalized by the recent realignment of Liberian political forces; and individuals who stand to lose influence as a result of reforms of President Johnson Sirleaf, in particular her anti-corruption initiatives and the cancellation of Government contracts and concessions.

40. Several pervasive challenges were noted, such as the extreme poverty in which a large segment of the population still lives; the inability of the authorities to provide basic social services, including proper sanitation, health care, clean water and electricity; the high rate of unemployment, particularly among youths; criminality countrywide, especially burglaries, robberies and street muggings; and the high concentration of ex-combatants in Monrovia. In addition, the potential for increased ethnic tensions and disputes over property rights and land ownership as refugees, internally displaced persons and former combatants return to their communities of origin was noted.

41. The unstable situation in Côte d'Ivoire continues to pose a significant external threat to the stability of Liberia and to subregional security. Of particular concern are the possible movement of armed groups from Côte d'Ivoire into Liberia, the recruitment of former combatants from Liberia for operations in Côte d'Ivoire and the influx of Ivorians seeking refuge from violence in Côte d'Ivoire. Any possible change in the current exile status of Charles Taylor may also have security implications.

D. The plan of action of the Government

42. The Government informed the assessment mission of its agenda for the reconstruction and development of Liberia and of its establishment of the Liberia Reconstruction and Development Committee to coordinate its reconstruction and development activities and to oversee the execution of key deliverables, both in the short and long term. The Committee, which is chaired by the President, oversees four separate subcommittees, which are each chaired by a key Minister. Two international partners serve as the vice-chairpersons of each subcommittee. The subcommittees are to focus on four priority areas or "pillars" including security, economic revitalization, basic services and infrastructure, and the rule of law and good governance. The Government is currently in the process of consolidating those priorities into a national strategy in close cooperation with UNMIL, the United Nations country team and other international partners.

43. The four pillars listed above are central to the short-term (150 days) and long-term (1,000 days) reconstruction agenda of the Government. President Johnson Sirleaf has promised to take steps within her first 150 days in office to improve, at least minimally, the quality of life of average Liberians. Her 150-day action plan focuses on some key deliverables and "quick win" projects, such as the partial restoration of electricity, the repair of roads and the rehabilitation of Government infrastructure. Resource mobilization will be essential in the short term to ensure that adequate resources are available to enable the Liberia Reconstruction and Development Committee to effectively drive the implementation of the 150-day plan.

44. The long-term agenda of the President aims at achieving certain key objectives which will ensure durable peace and stability in Liberia. The four pillars are central to that agenda. The "security" subcommittee will work on developing an integrated national defence policy, with appropriate national defence structures. The focus of the "economic revitalization" subcommittee will be on generating employment opportunities, revitalizing the agricultural sector, improving the investment climate and meeting the conditions for the lifting of sanctions. The road network of the country, as well as its transportation, electricity, water and sanitation, and health-care services, will be reviewed by the "basic services and infrastructure" subcommittee, while the "rule of law and good governance subcommittee" will attend to national legal, judicial and correctional institutions, legislative and constitutional reforms, decentralization, national reconciliation, human rights and civil service reform.

IV. Proposed adjustments to the United Nations Mission in Liberia

A. Adapting the mandate of the United Nations Mission in Liberia for the consolidation phase

45. In the light of the findings outlined in paragraphs 18 to 33, the assessment mission concluded that, although UNMIL has completed many of the core responsibilities mandated by Security Council resolution 1509 (2003), several critical tasks remain unfinished, including assisting the Government with the

reintegration of war-affected persons and ex-combatants; security sector reform; the consolidation of State authority throughout the country; the promotion of human rights and national reconciliation; the rehabilitation of the legal, judicial and correctional system and restoration of the rule of law; the implementation of the Governance and Economic Management Assistance Programme; and the restoration of proper administration over natural resources.

46. Based on the security threats identified in paragraphs 38 through 41, the assessment mission determined that a coordinated and sustained effort would be required to consolidate the gains made thus far. In addition, it was agreed by the assessment mission, the Government, UNMIL, the United Nations country team and international partners that there was a need for a consolidation phase during which UNMIL could focus on an adjusted mandate. That consolidation phase would last for a period of up to two years.

47. The priority tasks identified for UNMIL during the consolidation period are:

(a) maintaining a stable and secure environment;

(b) assisting the Government in completing the reintegration and rehabilitation programme for ex-combatants;

(c) facilitating the completion of the return and resettlement of refugees and internally displaced persons;

(d) accelerating the training and institutional development of the Liberian National Police and other security agencies, as well as the demobilization of the former police;

(e) assisting the Government in the restructuring of the Armed Forces of Liberia;

(f) assisting the Government in the consolidation of State authority throughout the country;

(g) assisting the Government in meeting the conditions for the lifting of diamond and timber sanctions;

(h) supporting the Government in building the capacity of State institutions;

(i) assisting the Government in rebuilding the culture of respect for human rights and the rule of law;

(j) assisting the Government in strengthening and rebuilding the capacity of judicial institutions; and

(k) assisting the Government in the implementation of the Governance and Economic Management Assistance Programme and other initiatives to ensure national revenues are captured and utilized for the public good.

B. Adjustments to the configuration of the Mission

48. The assessment mission, the Government, civil society, international partners, UNMIL and the United Nations country team all shared the view that it was too early for a major drawdown of UNMIL. The consensus was that a significant United Nations presence would continue to be indispensable during the consolidation

phase, in order to guarantee peace and stability in the country and to provide the necessary time for the new Government to establish its authority and launch its programme for national reconstruction and development. At the same time, it was recognized that since some of the initial tasks assigned to UNMIL had been completed, a review of the size and configuration of the Mission would be appropriate.

(a) Military component

49. After conducting a careful troop-to-task analysis, the assessment mission concluded that, in the absence of an immediate armed threat within Liberia, and bearing in mind the progress made in the implementation of resolution 1509 (2003), an adjustment to the UNMIL military component by reducing one infantry battalion in mid-2006 and another infantry battalion in early 2007 would be appropriate. The mission also acknowledged that the troop strength of UNMIL would be reduced by 250 troops by 31 March 2006, in order to bring it within the authorized troop strength of 15,000, in keeping with Security Council resolution 1626 (2005). Further adjustments would continue to be considered as the situation permits, without compromising the security of Liberia or the effectiveness of United Nations operations in the country.

50. During the consolidation period, the primary task of the military component of UNMIL will be to maintain a stable and secure environment and to protect civilians, key government installations and United Nations personnel and assets. At the same time, the Mission will continue to undertake cordon and search operations to retrieve weapons throughout the country and extend support to the UNDP Community Arms Collection for Development programme. It will also provide security support to the Special Court for Sierra Leone and engage in more proactive and flexible air and ground patrolling, especially along the borders, to monitor the possible recruitment of former combatants by Ivorian parties or the influx of armed elements from neighbouring countries, particularly Côte d'Ivoire. The use of UNMIL air assets, in a rapid response capacity, will also increase. The assessment mission also determined that measures should be taken to enhance the efficiency of UNMIL military observer activities.

51. The Liberian people and the donor community were unanimous in requesting that the engineering assets of UNMIL be used to accelerate road rehabilitation in the countryside, with donors providing the necessary material and local human resources. The World Bank and the European Commission have agreed to allocate funds for that purpose on a pilot basis.

(b) Police component

52. During the consolidation phase, the UNMIL police component will continue to provide extensive assistance to the Liberian police. The national police force forms one of the key pillars in the architecture of an effective security sector and must be developed as the principal instrument for maintaining domestic order and for dealing with internal security threats. In that regard, the UNMIL role will need to evolve from policing to supporting institutional development, advising and mentoring. To facilitate that transition, United Nations police specialists in the fields of diamond policing, immigration and border security, as well as forensic experts and officers experienced in Interpol operations, will need to be recruited.

53. In line with the careful drawdown of UNMIL troops and in view of the potential for increased public disorder, given the heightened expectations of the population following the inauguration of the new Government, the assessment mission recommended the deployment of an additional formed police unit. The assessment team was of the view that it would be important to complement reductions in the troop strength with an increase in the primacy of the policing functions of the Mission. That additional unit, to be deployed in a major population centre, would enable UNMIL to respond effectively and promptly to situations of public unrest, bearing in mind the potential and current threats to stability outlined in paragraphs 38 through 41, and the security risks that will inevitably arise from the implementation of the far-reaching reforms of the President. The deployment of that unit will also provide the Liberian Police Support Unit with additional time to develop the practical experience it requires to eventually take over those responsibilities from UNMIL.

(c) Civilian component

54. In order to facilitate the completion of the remaining aspects of its mandate, UNMIL will need to reconfigure some of its civilian operations. The assessment mission recommended that the Mission should deploy more of its senior political, human rights and rule-of-law specialists into the interior of the country to support activities in their respective areas and enhance its overall coordination role in the sectors. Moreover, in order to support the capacity-building initiatives of the Government in State institutions, the assessment mission recommended that UNMIL deploy qualified expert personnel from existing resources within its civil affairs component to State institutions, in collaboration with national authorities, as appropriate and where required.

C. Drawdown of the Mission

55. The assessment team proposed that the above adjustments to the troop and police strength of UNMIL should be followed by a drawdown of the Mission, which should begin in early 2007, security conditions permitting. The drawdown of UNMIL troops would be closely tied to the achievement of specific benchmarks that recognize the increasing capacity of the Government to assume responsibility for the maintenance of stability, law and order throughout the country, as well as progress made in the reintegration and rehabilitation of ex-combatants and war-affected populations, security sector reform, the consolidation of State authority, meeting the conditions for the lifting of sanctions, strengthening the rule of law and human rights; and improvements in the situation in the subregion, in particular in Côte d'Ivoire. I intend to provide the Council in due course with the elaborated benchmarks and timelines, which will guide the gradual and calibrated drawdown of UNMIL.

V. Forging a partnership in the consolidation phase

56. During the consolidation phase, it will be important for the Government, the United Nations and other international partners to forge an effective partnership aimed at safeguarding and building upon the gains made so far, completing all

remaining critical tasks and placing Liberia on a solid road to economic recovery and development. The coordination of efforts and a clear division of responsibilities will be vital in ensuring the effectiveness of such a partnership.

A. The role of the Government of Liberia

57. The Government will need to create the appropriate political environment and extend the necessary cooperation to ensure that the assistance provided by the international partners yields the maximum benefits for the country. The Government should also work towards maximizing the collection of revenues required to implement its most critical programmes, fight corruption and create the necessary conditions to attract private foreign investment. It must also move rapidly to meet the conditions for the lifting of sanctions. In addition, the Government will need to give priority to defining key policies and enacting legislation to support its critical reform initiatives. In particular, it will need to elaborate a national security policy, establish legal and regulatory frameworks for the management of resources and develop programmes aimed at public administration reform. The timely implementation of the Governance and Economic Management Assistance Programme will complement the elaboration and implementation of these critical policies.

58. President Johnson Sirleaf has already demonstrated her desire to institute a number of bold initiatives to address corruption, including administrative reforms that focus on streamlining central government, creating an efficient and non-partisan civil service and decentralizing the Government to ensure better delivery of public services to the 15 counties of Liberia. The draft code of conduct for public servants, prepared by the Governance Reform Commission, is currently under review. The President has also announced her intention to hold a national dialogue to review the Constitution of Liberia. These important initiatives will need to be underpinned by a commitment to democratic principles and inclusiveness in the political process.

B. The role of the international community

59. Liberia's international partners have made a considerable contribution to the implementation of the peace process in Liberia. During the consolidation phase, they will need to remain focused and engaged to provide support to the Liberian Government. The endorsement of the Governance and Economic Management Assistance Programme by the new Government is a strong indication of its desire to undertake reforms aimed at significantly improving economic governance. As the implementation of that Programme begins to enhance accountability and transparency in the management of public finance, it would be important for the IMF and the World Bank to assist the Government to find ways to overcome the substantial debt burden inherited from previous administrations.

60. Moreover, in order for the Government reform agenda to bear fruit, it will be important for donors to continue to generously contribute resources for priority programmes, such as for the reintegration of war-affected persons and ex-combatants; security sector reform; the rehabilitation of the legal, judicial and correctional system; the implementation of the Governance and Economic Management Assistance Programme; the proper administration of natural resources;

economic revitalization; the restoration of basic services, particularly electricity and clean water; and the rehabilitation of vital infrastructure. I appeal to the international community to support the Government, through timely contributions, in its efforts to elaborate a national capacity-building programme within the context of the Governance and Economic Management Assistance Programme, which will assist in ensuring that relevant skills, knowledge and expertise are transferred to Liberians in the earliest possible time frame. Where the Government demonstrates the will to reform, capacity-building programmes will form the linchpin to ensuring long-term recovery and reconstruction. The planned partner's conference, to be held in mid-2006, will provide an excellent opportunity to galvanize the support of the international community for the national recovery strategy of the Government.

61. The very important role being played by ECOWAS, the African Union and other regional partners in Liberia cannot be overemphasized. From the outset, ECOWAS has been instrumental in bringing the warring factions to the table to resolve their differences, in stabilizing the security situation in the country and in successfully settling disputes that threatened to derail the peace process. Despite many challenges, they have remained fully engaged and committed to the full restoration of peace and stability in Liberia. The continued support and engagement of regional partners in the consolidation phase will be vital.

C. The role of the United Nations country team

62. The United Nations country team will continue to be an indispensable partner in laying the foundation for the establishment of durable peace and stability in Liberia. The United Nations country team is preparing a common country assessment to identify development challenges, priorities and areas of United Nations system cooperation in Liberia, which will lead to the creation of the United Nations Development Assistance Framework. It will also guide the Government's national reconstruction and development strategy and its interim poverty reduction strategy.

VI. Inter-mission cooperation and subregional responsibilities of the United Nations Mission in Liberia

63. In its resolution 1609 (2005), the Security Council authorized me to temporarily redeploy military and civilian police personnel between UNMIL and the United Nations Operation in Côte d'Ivoire (UNOCI) to deal with challenges that cannot be handled within the authorized personnel ceiling of either Mission. In this regard, pending consideration by the Security Council of the recommendations contained in my report of 3 January 2006 (S/2006/2), concerning long-term reinforcement of UNOCI, I requested the Council, through my letter dated 1 February 2006 (S/2006/71), to approve the temporary redeployment of up to one mechanized infantry battalion and one formed police unit from UNMIL to UNOCI, for an initial period of three months.

64. By its resolution 1657 (2006), the Council authorized the immediate transfer of one infantry company from UNMIL to UNOCI until 31 March 2006, without prejudice to any further decisions by the Council on the level of troops of UNMIL. In the same resolution, the Council expressed its intention to keep under review

possible additional redeployments of troops between UNMIL and UNOCI. Earlier, in its resolution 1652 (2006), the Council expressed its intention to review the tasks and the troop level of UNOCI when it considers the present report on UNMIL, taking into account the situation in both Côte d'Ivoire and Liberia.

65. Recent efforts to implement Security Council resolution 1609 (2005) have presented a serious dilemma. As noted above, in its resolution 1657 (2006), the Council approved the transfer of only one company from UNMIL to reinforce UNOCI, although a request was made for a larger deployment. The Council was also unable to expedite consideration of the recommendations for strengthening UNOCI, contained in my report of 3 January 2006 (S/2006/2). This dilemma raises a question about the efficacy of the inter-mission military cooperation arrangements provided in resolution 1609 (2005), especially in an emergency situation. Therefore, while the proposed adjustments to the troop strength of UNMIL in mid-2006 may provide an opportunity to further reinforce UNOCI within the framework of resolution 1609 (2005), it is still essential for the Council to consider the overall recommendations presented in my report of 3 January 2006 (S/2006/2).

66. Should the Council, however, decide that the two Missions should rely only on the arrangements provided in resolution 1609 (2005) to reinforce each other as appropriate, it would be necessary to ensure that UNMIL retains the capacity to both reinforce UNOCI effectively and in a timely manner and to backstop the guard force assigned to protect the Special Court for Sierra Leone. In addition, in order to ensure the necessary efficiency in implementing those arrangements, it would be important to grant me sufficient latitude to transfer troops between the two Missions while keeping the Council informed.

VII. Financial aspects

67. The General Assembly, by its resolution 59/305, appropriated the amount of $722.4 million, equivalent to $60.2 million per month, for the maintenance of UNMIL for the period from 1 July 2005 to 30 June 2006. Should the Security Council approve my recommendation concerning the changes in the configuration of UNMIL contained in paragraphs 48 to 53, additional resources for the operation of the Mission for the 2005/06 period, if required, would be sought from the General Assembly during its resumed sixtieth session.

68. As at 30 November 2005, unpaid assessed contributions to the Special Account for UNMIL amounted to $251.6 million. The total outstanding assessed contributions for all peacekeeping operations as at that date amounted to $1,988.3 million. As at 31 December 2005, amounts owed to troop and formed police contributors totalled $89.9 million. Reimbursement for contingent-owned equipment costs and reimbursement for troops and formed police have been made for the period up to September 2005 and October 2005 respectively, in accordance with the quarterly payment schedule.

VIII. Observations

69. The installation of the new democratically elected Government of Liberia on 16 January marked the completion of the two-year transition process set out in the

Comprehensive Peace Agreement signed by the Liberian parties in August 2003. As outlined in paragraphs 18 to 33 of this report, during the transition period, UNMIL completed many of its initially assigned tasks. The National Transitional Government of Liberia, with the support of UNMIL, the United Nations agencies and other international partners, also successfully implemented most of the key provisions of the Comprehensive Peace Agreement.

70. However, a number of tasks that are critical to the sustainability of peace and stability in Liberia have yet to be fully implemented. These include the reintegration of ex-combatants, the resettlement of internally displaced persons and returning refugees, the restructuring and reform of the armed forces and police service, the consolidation of State authority throughout the country and the work of the Truth and Reconciliation Commission. In addition, the Transitional Government was not able to meet the conditions for the lifting of timber and diamond sanctions.

71. Despite considerable overall improvement, the security situation in the country remains fragile and continues to be anchored on the presence of UNMIL, as the new police service is still in its formative stages and the recruitment for the new armed forces is just beginning. Continued efforts are required to manage the internal potential threats to stability, in particular, possible violent reactions from elements that stand to lose from the Government's far-reaching reform programme, disgruntled ex-combatants, former members of the armed forces and police service and frustrated unemployed youth. Increased monitoring of Liberia's borders is also essential, given the volatile situation in the subregion, particularly the conflict in Côte d'Ivoire.

72. For the above reasons, the continued presence of UNMIL remains indispensable during the consolidation phase. I therefore recommend the extension of the mandate of UNMIL for a period of one year, until 31 March 2007. I further recommend that the Security Council approve the proposals to adjust UNMIL military strength as proposed in paragraph 49. In addition, in order to help enhance police primacy, I recommend that the Mission police strength be increased by one formed police unit, as proposed in paragraph 53. These proposed adjustments would ensure that UNMIL retains sufficient capacity to provide a reliable security umbrella for the new Government to fully establish its authority and take the necessary measures, with the support of its international partners, to safeguard and build on the gains made so far. I would also be grateful if the revisions to the mandate of UNMIL, as outlined in paragraph 47, could be approved. It is my intention to submit a timetable for a calibrated drawdown of UNMIL, with specific benchmarks and timelines in due course. The Mission is currently in the process of elaborating this timetable.

73. Liberia has entered a new era that presents not only the challenges that I have identified, but also hope and new opportunities. In the brief period since her inauguration, President Johnson Sirleaf has shown commendable determination to harness the opportunities and fulfil the hopes of the people of Liberia, who have given her the mandate to take the country on the long journey of recovery and renewal. She has appointed an inclusive Government, taken bold initiatives to remove corruption, embraced the Governance and Economic Management Assistance Programme, adopted a reconstruction and development agenda and assured neighbouring countries that the new Liberia will play a constructive role in the subregion.

74. In the coming months, the Government will need to forge an enhanced partnership with the United Nations family, the donor community, ECOWAS and the African Union, for the consolidation of peace and for taking forward the reconstruction and development agenda of Liberia. The Government must actively take ownership of that agenda and manage the resources of the country for the benefit of the people. For their part, the international partners of Liberia should be ready to extend the timely and necessary support to the new Government and to ensure that their significant investment in the country over the last few years will lead to sustainable peace and development. At the same time, the United Nations family will continue to play a critical role in laying the foundation for durable peace and stability in Liberia.

75. In conclusion, I would like to commend my Special Representative and all civilian and military staff of UNMIL for their contributions to the peace process in difficult and challenging circumstances. I would also like to express my gratitude to the countries that are contributing military and police personnel to the Mission, ECOWAS and its mediator, General Abdulsalami Abubakar, the African Union, the International Contact Group on the Mano River Basin, United Nations agencies, funds and programmes and humanitarian organizations, as well as to multilateral and bilateral donors and international and local non-governmental organizations, for their steadfast efforts to return peace to Liberia.

Annex

United Nations Mission in Liberia: military and civilian police strength as at 1 March 2006

	Military				*Police*
Country	*Military observers*	*Staff officers*	*Troops*	*Total*	*Civilian police*
Argentina					1
Bangladesh	17	12	3 176	3 205	29
Benin	4	1		5	
Bolivia	3	1		4	
Bosnia and Herzegovina				0	3
Brazil		1		1	
Bulgaria	2			2	
China	5	8	557	570	25
Croatia		3		3	
Czech Republic	3			3	3
Denmark	2			2	
Ecuador	3	1		4	
Egypt	8			8	
El Salvador	3			3	2
Ethiopia	17	8	2 520	2 545	
Fiji				0	29
Finland		3		3	
France		1		1	
Gambia	5			5	30
Germany			15	15	5
Ghana	11	6	846	863	39
Indonesia	3			3	
Ireland		5	427	432	
Jamaica				0	4
Jordan	8	7	115	130	135
Kenya	3	4		7	27
Kyrgyzstan	4			4	3
Malawi		2		2	18
Malaysia	10			10	
Mali	4	1		5	
Mongolia		2	248	250	
Namibia	3	4	856	863	6
Nepal	3	2	40	45	256
Niger	3			3	2

	Military				Police
Country	Military observers	Staff officers	Troops	Total	Civilian police
Nigeria	18	11	1 938	1 967	162
Norway				0	6
Pakistan	16	11	2 720	2 747	5
Paraguay	3	1		4	
Peru	3	2		5	
Philippines	3	4	165	172	26
Poland	2			2	3
Portugal				0	
Republic of Korea	1	1		2	
Republic of Moldova	3	0		3	
Romania	3			3	
Russian Federation	7			7	17
Samoa				0	4
Senegal	3	3	598	604	
Serbia and Montenegro	6			6	4
South Africa				0	
Sri Lanka				0	11
Sweden	0	6	230	236	10
Togo	2	0		2	
Turkey				0	34
Uganda				0	21
Ukraine	3	1	297	301	11
United Kingdom		3		3	
United States of America	5	4		9	32
Uruguay				0	
Yemen				0	4
Zambia	2			2	27
Zimbabwe				0	22
Total	**204**	**119**	**14 748**	**15 071**	**1 016**

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